

The **NORTH CAROLINA REGISTER**

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INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 52 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. **1:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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NORTH CAROLINA REGISTER



*Office of Administrative Hearings
P. O. Drawer 11666
Raleigh, NC 27604
(919) 733 - 2678*

James R. Scarcella Sr.,
Deputy Director
Molly Masich,
Director APA Services

Staff:
Ruby Creech,
Publications Coordinator
Teresa Kilpatrick,
Editorial Assistant
Jean Shirley,
Editorial Assistant

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NORTH CAROLINA REGISTER
Publication Deadlines and Schedules
 (January 1989 - May 1990)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
01/02/89	12/08/88	12/15/88	02/01/89	05/01/89
01/16/89	12/27/88	01/03/89	02/15/89	05/01/89
02/01/89	01/10/89	01/17/89	03/03/89	06/01/89
02/15/89	01/26/89	02/02/89	03/17/89	06/01/89
03/01/89	02/08/89	02/15/89	03/31/89	07/01/89
03/15/89	02/21/89	03/02/89	04/14/89	07/01/89
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07/03/89	06/12/89	06/19/89	08/01/89	11/01/89
07/14/89	06/22/89	06/29/89	08/13/89	11/01/89
08/01/89	07/11/89	07/18/89	08/31/89	12/01/89
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12/01/89	11/07/89	11/15/89	12/31/89	04/01/90
12/15/89	11/22/89	12/01/89	01/14/90	04/01/90
01/02/90	12/07/89	12/14/89	02/01/90	05/01/90
01/16/90	12/20/89	12/29/89	02/15/90	05/01/90
02/01/90	01/10/90	01/18/90	03/03/90	06/01/90
02/15/90	01/25/90	02/01/90	03/17/90	06/01/90
03/01/90	02/08/90	02/15/90	03/31/90	07/01/90
03/15/90	02/22/90	03/01/90	04/14/90	07/01/90
04/02/90	03/12/90	03/19/90	05/02/90	08/01/90
04/16/90	03/23/90	03/30/90	05/16/90	08/01/90
05/01/90	04/09/90	04/17/90	05/31/90	09/01/90
05/15/90	04/24/90	05/01/90	06/14/90	09/01/90

* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

VOTING RIGHTS ACT FINAL DECISION LETTERS

[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]

U.S. Department of Justice
Civil Rights Division

JPT:MAP:RA:gmh
DJ 166-012-3
Y8580
Z1757-1759

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

September 8, 1989

DeWitt F. McCarley, Esq.
City Attorney
P.O. Box 7207
Greenville, North Carolina 27835-7207

Dear Mr. McCarley:

This refers to the three annexations [Ordinance Nos. 1972, 1973, and 1991 (1989)] and the designation of the annexed areas to single-member districts for the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on July 10, 1989.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

By:

Barry H. Weinberg
Acting Chief, Voting Section

VOTING RIGHTS ACT FINAL DECISION LETTERS

U.S. Department of Justice
Civil Rights Division

JPT:MAP:CMrac:gmh
DJ 166-012-3
Y9449-9458

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

September 11, 1989

Robert C. Cogswell, Jr., Esq.
City Attorney
P.O. Box 1513
Fayetteville, North Carolina 28302-1513

Dear Mr. Cogswell:

This refers to the nine annexations (Ordinance Nos. 88-11-315, 88-11-316, 88-11-317, 88-11-318, 89-2-319, 89-3-320, 89-4-321, 89-4-322, 89-5-323) and the designation of the annexed areas to single-member districts for the City of Fayetteville in Cumberland County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your initial submission on July 11, 1989; supplemental information was received on August 31, 1989.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

By:

Barry H. Weinberg
Acting Chief, Voting Section

TITLE 8 - STATE BOARD OF ELECTIONS

Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Elections intends to amend rule(s) cited as 8 NCAC 1 .0004.

The proposed effective date of this action is February 1, 1990.

The public hearing will be conducted at 11:00 a.m. on November 1, 1989 at Conference Room 812, State Board of Elections, Raleigh Building, 5 West Hargett Street, Raleigh, North Carolina 27601.

Comment Procedures: Any person interested in this amendment may present written or oral comments at the public hearing. Written statements not presented at the public hearing should be directed to the State Board of Elections during the 30-day period prior to the scheduled public hearing at the following address:

*State Board of Elections
P.O. Box 1166
Raleigh, NC 27602*

CHAPTER 1 - DEPARTMENTAL RULES

.0004 PROCEDURES FOR POLITICAL COMMITTEES

(d) Whenever a political committee or referendum committee shall fail to file with the State Board of Elections any report required to be filed under the provisions of G.S. 163-278.9 or G.S. 163-278.9A, the Board, by certified mail, shall issue a formal NOTICE OF NONCOMPLIANCE to the political treasurer of said committee and shall order that the report be filed immediately. In the event said committee does not file its report within 20 days of the issuance of the NOTICE OF NONCOMPLIANCE, the Board, by certified mail, shall issue NOTICE OF TERMINATION OF ACTIVE STATUS, which shall render said committee ineligible to receive or make contributions until such time as it has filed the delinquent report and has satisfied any statutory penalty incurred as a result of noncompliance with the provisions of Article 22A of Chapter 163.

Statutory Authority G.S. 163-278.7; 163-278.8; 163-278.21; 163-278.22; 163-278.23; 163-278.27.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Health Services intends to amend rule(s) cited as 10 NCAC 4C .0302 - .0303; 10 NCAC 7A .0106 - .0107, .0209, .0405; 10 NCAC 7C .0204 - .0205, .0601 - .0602; 10 NCAC 7G .0302 - .0303; 10 NCAC 8A .1202; 10 NCAC 8B .0110 - .0116, .0902, .0904, .0906; 10 NCAC 8C .1106; 10 NCAC 9D .0309, .0317; 10 NCAC 10A .0443 - .0444; intends to repeal rule(s) cited as 10 NCAC 7C .0603; and intends to adopt rule(s) cited as 10 NCAC 7A .0504; 10 NCAC 7C .0604 - .0608; 10 NCAC 10A .2501 - .2508; 10 NCAC 10G .1001 - .1008.

The proposed effective date of this action is February 1, 1990.

The public hearing will be conducted at:

November 1, 1989

7:00 p.m.

*Town Hall 224 North Trade Street
Matthews, N.C.*

November 6, 1989

1:30 p.m.

*Archdale Building
Hearing Room (Ground Floor)
512 North Salisbury Street
Raleigh, North Carolina*

Comment Procedures: Any person may request information or copies of the proposed rules by writing or calling John P. Barkley, Agency Legal Specialist, Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, North Carolina 27611-7687, (919) 733-3134. Written comments on these rule changes may be sent to Mr. Barkley at the above address. Written and oral comments (no more than ten minutes for oral comments) on these rule changes may be presented at the public hearing. Notice should be given to Mr. Barkley at least three days prior to the public hearing if you desire to speak.

CHAPTER 4 - HEALTH SERVICES: OFFICE OF THE DIRECTOR

SUBCHAPTER 4C - PAYMENT PROGRAMS

SECTION .0300 - ELIGIBILITY PROCEDURES

.0302 AUTHORIZATIONS AND CLAIMS PROCESSING TIME FRAMES

The following time frames shall apply to all payment programs:

- (6) A claim must show payments by other third party payors or it must show that all other*

payors have denied payment or that there are no other payors. Once another payor has been billed, if no response has been received within 80 days after the date of service, the provider may bill the ~~division~~ Department, but the claim must indicate that the other payor has been billed and no response has been received. If payment is received later from the other payor, the provider must refund the ~~division~~ Department. Providers of pharmacy outpatient services are required to bill Medicaid. However, they are not required to bill other third party payors and wait 80 days before billing the division Department but are required to refund the division Department if other third party payments are received.

Statutory Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-177; 130A-205.

.0303 PAYMENT LIMITATIONS

(d) If prior to the ~~division's~~ Department's payment for particular services or appliances, the provider, the patient, or a person responsible for the patient receives partial or total payment for the services or appliances from a third party payor, or receives funds in settlement of a civil claim ~~for bodily injury~~, which are available to pay for the services or appliances, the ~~division~~ Department may pay only the amount, if any, by which the ~~division's~~ Department's payment rate exceeds the amount received by the person. For the purpose of this Rule, the ~~division's~~ Department's payment rate means the rate of reimbursement established in 10 NCAC 4C .0400 and 10 NCAC 8A .0400.

Statutory Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-177; 130A-205.

CHAPTER 7 - HEALTH; EPIDEMIOLOGY

SUBCHAPTER 7A - ACUTE COMMUNICABLE DISEASE CONTROL

SECTION .0100 - REPORTING OF COMMUNICABLE DISEASES

.0106 REPORTABLE DISEASES AND CONDITIONS

(a) The following named diseases and conditions are declared to be dangerous to the public health and are hereby made reportable within the time period specified after the disease or condition is reasonably suspected to exist:

- (1) acquired immune deficiency syndrome (AIDS) - 7 days;
- (2) amebiasis - 7 days;

- (3) anthrax - 24 hours;
- (4) blastomycosis - 7 days;
- (5) botulism - 24 hours;
- (6) brucellosis - 7 days;
- (7) campylobacter infection - 24 hours;
- (8) chancroid - 24 hours;
- (9) chlamydial infection (laboratory confirmed) - 7 days;
- (10) cholera - 24 hours;
- (11) dengue - 7 days;
- (12) diphtheria - 24 hours;
- (13) encephalitis - 7 days;
- (14) foodborne disease, including but not limited to *Clostridium perfringens*, staphylococcal, and *Bacillus cereus* - 24 hours;
- (15) gonorrhea - 24 hours;
- (16) granuloma inguinale - 24 hours;
- (17) *Hemophilus influenzae*, invasive disease - 24 hours;
- (18) hepatitis A - 24 hours;
- (19) hepatitis B - 24 hours;
- (20) hepatitis B carriage - 7 days;
- (21) hepatitis non-A, non-B - 7 days;
- (22) human immunodeficiency virus infection (HIV) confirmed - 7 days;
- (23) ~~(22)~~ legionellosis - 7 days;
- (24) ~~(23)~~ leprosy - 7 days;
- (25) ~~(24)~~ leptospirosis - 7 days;
- (26) ~~(25)~~ Lyme disease - 7 days;
- (27) ~~(26)~~ lymphogranuloma venereum - 7 days;
- (28) ~~(27)~~ malaria - 7 days;
- (29) ~~(28)~~ measles (rubeola) - 24 hours;
- (30) ~~(29)~~ meningitis, pneumococcal - 7 days;
- (31) ~~(30)~~ meningitis, viral (aseptic) - 7 days;
- (32) ~~(31)~~ meningococcal disease - 24 hours;
- (33) ~~(32)~~ mucocutaneous lymph node syndrome (Kawasaki syndrome) - 7 days;
- (34) ~~(33)~~ mumps - 7 days;
- (35) ~~(34)~~ nongonococcal urethritis - 7 days;
- (36) ~~(35)~~ plague - 24 hours;
- (37) ~~(36)~~ paralytic poliomyelitis - 24 hours;
- (38) ~~(37)~~ psittacosis - 7 days;
- (39) ~~(38)~~ Q fever - 7 days;
- (40) ~~(39)~~ rabies, human - 24 hours;
- (41) ~~(40)~~ Reye's syndrome - 7 days;
- (42) ~~(41)~~ Rocky Mountain spotted fever - 7 days;
- (43) ~~(42)~~ rubella - 24 hours;
- (44) ~~(43)~~ rubella congenital syndrome - 7 days;
- (45) ~~(44)~~ salmonellosis - 24 hours;
- (46) ~~(45)~~ shigellosis - 24 hours;
- (47) ~~(46)~~ syphilis - 24 hours;
- (48) ~~(47)~~ tetanus - 7 days;
- (49) ~~(48)~~ toxic shock syndrome - 7 days;
- (50) ~~(49)~~ trichinosis - 7 days;

- (51) ~~(50)~~ tuberculosis - 24 hours;
- (52) ~~(51)~~ tularemia - 24 hours;
- (53) ~~(52)~~ typhoid - 24 hours;
- (54) ~~(53)~~ typhoid carriage (*Salmonella typhi*) - 7 days;
- (55) ~~(54)~~ typhus, epidemic (louse-borne) - 7 days;
- (56) ~~(55)~~ whooping cough - 24 hours;
- (57) ~~(56)~~ yellow fever - 7 days.

(b) For purposes of reporting confirmed human immunodeficiency virus infection (HIV) is defined as a positive virus culture; repeatedly reactive EIA antibody test confirmed by western blot or indirect immunofluorescent antibody test; or other confirmed testing method approved by the Director of the State Public Health Laboratory conducted on or after February 1, 1990.

Statutory Authority G.S. 130A-134; 130A-141.

.0107 METHOD OF REPORTING

(a) When a report of a disease or condition is required to be made pursuant to G.S. 130A-135 through 139 and 10 NCAC 7A .0106, the report shall be made to the local health director as follows:

- (3) Reports of cases of confirmed HIV infection identified by anonymous tests that are conducted at HIV testing sites designated by the State Health Director pursuant to 10 NCAC 7A .0209(d)(14) shall be made on forms provided by the Division for that purpose. No communicable disease report card shall be required. Division of Health Services and shall include the name and address of the patient, the name and address of any minor's parent or guardian, and all other pertinent epidemiologic information requested on the form.

- (4) ~~(2)~~ In addition to the requirements of Paragraph (1) and (2), the epidemiologic information requested on a surveillance form provided by the Division of Health Services shall be completed and submitted for the reportable diseases and conditions identified in 10 NCAC 7A .0106 (1), (6), (17), (18), (19), (20), (21), (22), (23), (24), (25), (27), (29), (31), (32), (36), (37), (40), (41), (43), (47), (48), (49), (50), (51), (52), (55).

- (5) ~~(4)~~ Communicable disease report cards and surveillance forms are available from the morbidity unit, N.C. Division of Health Services, P.O. Box 2091, Raleigh, N.C. 27602, and from local health departments.

Statutory Authority G.S. 130A-134; 130A-141.

SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES

.0209 CONTROL MEASURES

(a) Except as provided in ~~Paragraph (d), Paragraphs (d) and (i),~~ the specific control measures for each disease and condition shall be those specified by the American Public Health Association in its publication, *Control of Communicable Disease in Man*. Control of Communicable Disease in Man is hereby adopted by reference in accordance with G.S. 150B-14(c). Copies of this publication are available from the American Public Health Association, Department JE, 1015 15th Street, N.W., Washington, DC 20005. A copy is available for inspection in the Communicable Disease Control Branch, Cooper Memorial Health Building, 225 N. McDowell Street, Raleigh, North Carolina 27602.

(d) The following are the control measures for the Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) infection:

- (1) Infected persons shall:

- (A) refrain from sexual intercourse unless condoms are used; exercise caution when using condoms due to possible condom failure;
- (B) never share needles or syringes;
- (C) not donate or sell blood, plasma, platelets, other blood products, semen, ova, tissues, organs, or breast milk;
- (D) have a skin test for tuberculosis;
- (E) notify future sexual intercourse partners of the infection; if the time of initial infection is known, notify persons who have been sexual intercourse and needle partners since the date of infection; and, if the date of initial infection is unknown, notify persons who have been sexual intercourse and needle partners for the previous year.

- (2) The attending physician shall:

- (A) give the control measures in (d) (1) to infected patients, in accordance with 10 NCAC 7A .0210;
- (B) give the patient a form provided by the Division of Health Services and encourage its use for listing partners for whom notification is required in (d)(1)(E); the physician shall encourage the patient to arrange an appointment with a Division of Health Services AIDS counselor regarding partner notification and to complete the form, and either take it to the Division of Health Services AIDS counselor or mail it to the division so that the

- division may undertake counseling of the partners to prevent further transmission. The Division of Health Services shall destroy the list after it has counseled the partners or after a reasonable attempt has been made to do so;
- (C) If the attending physician knows the identity of the spouse of an HIV-infected patient and has not, with the consent of the infected patient, notified and counseled the spouse appropriately, the physician shall list the spouse on a form provided by the Division of Health Services and shall mail the form to the Division; the Division will undertake to counsel the spouse; the attending physician's responsibility to notify exposed and potentially exposed persons is satisfied by fulfilling the requirements of (d)(2)(B) and (C);
- (D) advise infected persons concerning proper clean-up of blood and other body fluids;
- (E) advise infected persons concerning the risk of perinatal transmission and transmission by breastfeeding.
- (3) The attending physician of a child who is infected with HIV and who may pose a significant risk of transmission in the school or day care setting because of open, oozing wounds or because of behavioral abnormalities such as biting shall notify the local health director. The local health director shall consult with the attending physician and investigate the circumstances.
- (A) If the child is in school or scheduled for admission and the local health director determines that there may be a significant risk of transmission, the local health director shall consult with an interdisciplinary committee, which shall include appropriate school personnel, a medical expert, and the child's parent or guardian to assist in the investigation and determination of risk. The local health director shall notify the superintendent or private school director of the need to appoint such an interdisciplinary committee.
- (i) If the superintendent or private school director establishes such a committee within three days of notification, the local health director shall consult with this committee.
- (ii) If the superintendent or private school director does not establish such a committee within three days of notification, the local health director shall establish such a committee.
- (B) If the child is in school or scheduled for admission and the local health director determines, after consultation with the committee, that a significant risk of transmission exists, the local health director shall:
- (i) notify the parents;
- (ii) notify the committee;
- (iii) assist the committee in determining whether an adjustment can be made to the student's school program to eliminate significant risks of transmission;
- (iv) determine if an alternative educational setting is necessary to protect the public health;
- (v) instruct the superintendent or private school director concerning appropriate protective measures to be implemented in the alternative educational setting developed by appropriate school personnel; and
- (vi) consult with the superintendent or private school director to determine which school personnel directly involved with the child need to be notified of the HIV infection in order to prevent transmission and ensure that these persons are instructed regarding the necessity for protecting confidentiality.
- (C) If the child is in day care and the local health director determines that there is a significant risk of transmission, the local health director shall notify the parents that the child must be placed in an alternate child care setting that eliminates the significant risk of transmission.
- (4) When health care workers or other persons have had a nonsexual blood or body fluid exposure that poses a significant risk of transmission, the following shall apply:
- (A) When the source person is known:
- (i) The attending physician or occupational health care provider responsible for the exposed person shall notify the attending physician of the person whose blood or body fluids is the source of the exposure that an exposure has occurred. If the attending physician of the source person knows the source's HIV infection status, the physician shall transmit this information to the attending physician of the exposed person. If the attending physician of the source person does not know the infection status of the source person, the physician shall discuss the exposure with the source

and if the source person is at high risk for HIV infection, shall request permission for testing for HIV infection. If permission is granted, the source shall be tested. If permission is denied, the local health director may order testing of the source if the local health director determines that the exposure poses a significant risk of transmission of HIV and that the source is at high risk for HIV infection. Whether or not the source is tested, the attending physician of the exposed person shall be notified of the risk status of the source and the infection status of the source, if known.

- (B) When the source person is unknown, the attending physician of the exposed person shall inform the exposed person of the risk of transmission and offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred.
- (5) The attending physician shall notify the local health director when the physician, in good faith, has reasonable cause to suspect a patient infected with HIV is not following or cannot follow control measures and is thereby causing a significant risk of transmission.
- (6) When the local health director is notified pursuant to Paragraph (5) of a person who is mentally ill or mentally retarded, the local health director shall confer with the attending mental health physician or appropriate mental health authority and the physician who notified the local health director to develop an appropriate plan to prevent transmission.
- (7) The Director of Health Services of the North Carolina Department of Correction and the prison facility administrator shall be notified by the attending physician of any HIV-infected person confined in a state prison. If the prison facility administrator, in consultation with the Director of Health Services, determines that a confined HIV-infected person is not following or cannot follow prescribed control measures, thereby presenting a significant risk of HIV transmission, the administrator and the director shall develop and implement jointly a plan to prevent transmission, including making appropriate recommendations to the unit housing classification committee.
- (8) The local health director shall ensure that the health plan for local jails include edu-

cation of jail staff and prisoners about HIV, how it is transmitted, and how to avoid acquiring or transmitting this infection.

- (9) ~~Health care workers, including emergency responders and funeral service personnel, shall follow blood and body fluid precautions with all patients.~~
- (9)(10) Health care workers with HIV infection who have secondary infections or open skin lesions which would place patients at risk shall not provide direct patient care. Otherwise, these control measures do not require restrictions in the workplace of persons with HIV infection.
- (11) ~~All equipment used to puncture human skin (in medical or other settings) must be disposed of in accordance with G.S. 90-113.4A after use or sterilized prior to reuse.~~
- (10)(12) Local health departments that provide testing for HIV infection shall offer free ~~anonymous~~ testing with individual pre- and post-test counseling. ~~Counseling shall include risk assessment, risk reduction guidelines, appropriate test result interpretation, and, when the person tested is determined to be infected with HIV, control measures.~~
- (11) Appropriate counseling for HIV testing shall include individualized pre- and post-test counseling which provides risk assessment, risk reduction guidelines, appropriate referrals for medical and psychosocial services, and, when the person tested is determined to be infected with HIV, control measures.
- (12) The State Health Director shall designate no fewer than nine nor more than 15 HIV testing sites to conduct anonymous testing.
- (13) A person ~~charged with~~ convicted of an offense that involves nonconsensual vaginal, anal, or oral intercourse, or that involves vaginal, anal, or oral intercourse with a child 12 years old or less shall be tested for HIV infection if:
 - (A) ~~probable cause has been found or an indictment has been issued;~~
 - (A)(B) the victim notifies the local health director and requests information concerning the HIV status of the defendant; and
 - (B)(C) the local health director determines that the alleged sexual contact involved in the offense would pose a significant risk of transmission of HIV if the defendant were HIV infected.

If in custody of the Department of Correction, the person shall be tested by the Department of Corrections and if not in custody, the person shall be tested by the local health department. The Department of Corrections shall inform the local health director of all such test results. The local health director shall inform the victim of the results of the test, counsel the victim appropriately, and instruct the victim regarding the necessity for protecting confidentiality.

(g) Health care workers, including emergency responders and funeral service personnel, shall follow blood and body fluid precautions with all patients.

(h) All equipment used to puncture human skin (in medical or other settings) must be disposed of in accordance with G.S. 90-113.4A after use or sterilized prior to reuse.

(i) The following are the control measures for hepatitis B infection:

(1) Infected persons shall:

(A) refrain from sexual intercourse unless condoms are used except when the partner is known to be infected with or immune to hepatitis B;

(B) never share needles or syringes;

(C) not donate or sell blood, plasma, platelets, other blood products, semen, ova, tissues, organs, or breast milk;

(D) if the time of initial infection is known, identify to the local health director all sexual intercourse and needle partners since the date of infection; and, if the date of initial infection is unknown, identify persons who have been sexual intercourse or needle partners during the previous six months;

(E) for the duration of the infection, notify future sexual intercourse partners of the infection and refer them to their attending physician or the local health director for control measures;

(F) be tested six months after diagnosis to determine if they are chronic carriers, annually for two years thereafter if they remain infected, and when necessary to determine appropriate control measures for persons exposed pursuant to Paragraph (2) of this Rule.

(2) The following are the control measures for persons reasonably suspected of being exposed:

(A) when a person has had sexual intercourse exposure to hepatitis B infection, the person shall be given hepatitis B immune globulin or immune globulin, 0.06

ml/kg, IM as soon as possible and within two weeks of the last exposure;

(B) when a person is a household contact, sexual intercourse or needle sharing contact of a person who has remained infected with hepatitis B for six months or longer, the partner or household contact, if susceptible, shall be vaccinated against hepatitis B;

(C) when a health care worker or other person has a needlestick, non-intact skin, or mucous membrane exposure to blood or body fluids that poses a significant risk of hepatitis B transmission, the following shall apply:

(i) when the source is known, the source person shall be tested for hepatitis B infection, unless already known to be infected;

(ii) when the source is infected with hepatitis B and the exposed person is:

(I) vaccinated, the exposed person shall be tested for anti-HBs. If anti-HBs is less than ten SRU by RIA or negative by EIA, the exposed person shall be given hepatitis B immune globulin, 0.06 ml/kg, IM immediately and a single dose of hepatitis B vaccine within seven days;

(II) not vaccinated, the exposed person shall be given hepatitis B immune globulin, 0.06 ml/kg, IM immediately and, if at high risk for future exposure, begin vaccination with hepatitis B vaccine within seven days.

(iii) When the source is unknown and the exposed person is:

(I) vaccinated, no intervention is necessary;

(II) unvaccinated, the exposed person shall be given hepatitis B immune globulin or immune globulin, 0.06 ml/kg, IM immediately and, if at high risk for future exposure, begin vaccination with hepatitis B vaccine within seven days.

(D) infants born to infected mothers shall be given hepatitis B immune globulin, 0.5 ml, IM as soon as stabilized and within 12 hours after birth; vaccinated against hepatitis B beginning as soon as possible and within seven days following birth; and tested for HBsAg at 12-15 months of age.

(3) The following persons shall be vaccinated against hepatitis B:

(A) health care workers who have potential occupational needlestick, mucous membrane, or non-intact skin exposure to

blood, blood components, or other potentially infectious body fluids an average of one or more times each month, including but not limited to medical technologists and other laboratory workers exposed to blood, emergency room personnel involved in patient care, persons who draw blood or start IVs, surgeons, personnel who assist in surgery, dentists, dental assistants and hygienists, oral surgeons, and patient care staff in dialysis units. Health care workers need not be tested for susceptibility prior to vaccination; however, those who are known to be infected or immune are not required to be vaccinated;

(B) persons who are mentally retarded and reside in institutions and persons who provide direct patient care to mentally retarded individuals within institutions;

(C) hemodialysis patients; and

(D) patients who receive frequent transfusions of blood products.

Persons required by Subparagraphs (B), (C), and (D) to be vaccinated may be tested for susceptibility to hepatitis B prior to vaccination. Those who are known to be infected or immune are not required to be vaccinated.

(4) The attending physician shall advise all patients known to be at high risk, including injection drug users and men who have sex with men, that they should be vaccinated against hepatitis B if susceptible.

(5) The following persons shall be tested for hepatitis B infection:

(A) pregnant women unless known to be infected; and

(B) donors of blood, plasma, platelets, and other blood products.

Statutory Authority G.S. 130A-144.

SECTION .0400 - IMMUNIZATION

.0405 MEDICAL EXEMPTIONS FROM IMMUNIZATION

(a) Certification of a medical exemption by a physician pursuant to G.S. 130A-156 shall be in writing and shall state the basis of the exemption, the specific vaccine or vaccines the individual should not receive, and the length of time the exemption will apply for the individual.

(b) The following are medical contraindications for which medical exemptions may be granted for immunizations required by G.S. 130A-152:

(1) Pertussis vaccine:

(A) Permanent contraindications:

(i) fever greater than 40.5 C (104.9 F), hypotonic-hyporesponsive episode or unusual high-pitched crying lasting three hours or more, occurring within 48 hours after receipt of pertussis vaccine;

(ii) seizure within 72 hours after receipt of pertussis vaccine;

(iii) encephalopathy within seven days after receipt of pertussis vaccine;

(iv) immediate allergic reaction to pertussis vaccine manifested by hives or anaphylaxis; or

(v) documented history of culture confirmed pertussis disease.

(B) Temporary contraindications:

(i) undiagnosed, unstable, or evolving neurological conditions, including seizures; or

(ii) acute febrile illness.

(2) Diphtheria or tetanus toxoids:

(A) Permanent contraindications: immediate allergic reaction to diphtheria or tetanus toxoids manifested by hives or anaphylaxis.

(B) Temporary contraindications: acute febrile illness.

(3) Measles and mumps vaccine:

(A) Permanent contraindications:

(i) significantly immunocompromising conditions other than HIV infection;

(ii) allergic reaction to eggs or neomycin manifested by anaphylaxis.

(B) Temporary contraindications:

(i) acute febrile illness;

(ii) pregnancy.

(4) Rubella vaccine:

(A) Permanent contraindications:

(i) significantly immunocompromising conditions other than HIV infection;

(ii) allergic reaction to neomycin manifested by anaphylaxis.

(B) Temporary contraindications:

(i) acute febrile illness;

(ii) pregnancy.

(5) Live polio vaccine:

(A) Permanent contraindications:

(i) significantly immunocompromising conditions;

(ii) significantly immunocompromising condition in a household contact.

(B) Temporary contraindications:

(i) acute febrile illness;

(ii) pregnancy.

Statutory Authority G.S. 130A-152(c), 130A-156.

SECTION .0500 - PURCHASE AND
DISTRIBUTION OF VACCINE

.0504 DISTRIBUTION OF VACCINE

(a) The Department of Environment, Health, and Natural Resources may provide vaccines required by law to North Carolina universities and colleges to administer to eligible college students who need vaccines to meet the requirements of G.S. 130A-155.1 and 10 NCAC 7A .0401. These vaccines may be provided to universities and colleges by local health departments acting as agents of the state.

(b) A college or university shall be eligible to receive vaccines from the department only if it signs an agreement with the local health department serving the county in which it is located. This agreement shall be prepared by the Immunization Branch and shall require the college or university to administer such vaccines only to eligible students; to charge only the amount it paid for the vaccine and a reasonable administration fee; to submit monthly vaccine reports on a form prepared by the Immunization Branch by the fifth day of each month; to report adverse vaccine reactions through the Federal Monitoring System for Adverse Events Following Immunization (MSAEFI); to obtain a signed Important Information Statement for each dose of vaccine administered and to retain the signed portion for a period of ten years following the end of the calendar year in which the form was signed, or for ten years following the recipient's age of majority, whichever is longer, and upon request, furnish copies of the signed portion to the Department, the above local health department, or the Centers for Disease Control, Department of Health and Human Services; to keep a record of the vaccine manufacturer, lot number, and date of administration for each dose of vaccine administered; to allow periodic inspection of its vaccine supplies and records by the Immunization Branch; and to comply with the rules of this Section.

(c) Students shall be eligible to receive state provided vaccines only if the dose is necessary to bring the student into compliance with G.S. 130A-155.1 and 10 NCAC 7A .0401.

(d) A college or university that fails to submit timely and accurate reports, as required in Paragraph (b) of this Rule, twice in any 12 month period shall have its eligibility to receive state provided vaccine suspended for a period of one year. A college or university that fails to comply with any of the other requirements of this Rule may have its eligibility suspended by the Department for a period determined by the Department and may be subject to an action brought pursu-

ant to G.S. 130A-27. All suspensions of eligibility shall be in accordance with G.S. 130A-23.

Statutory Authority G.S. 130A-155.1; 130A-433.

SUBCHAPTER 7C - OCCUPATIONAL HEALTH
BRANCH

SECTION .0200 - DUSTY TRADES PROGRAM

.0204 CHEST X-RAYS

(a) ~~Annual~~ Chest x-rays shall be provided in accordance with G.S. 97-60 for employees of companies that have been designated by the North Carolina Industrial Commission as dusty trades.

Statutory Authority G.S. 97-60; 130A-5(3).

.0205 ADVISORY MEDICAL COMMITTEE

(a) The Advisory Medical Committee consists of three members who are appointed by the Industrial Commission and approved by the Governor.

~~(b) Chest x-rays for dusty trade employees shall be read by a member of the Advisory Medical Committee.~~

~~(c) The Advisory Medical Committee member who reads and evaluates x-rays shall be compensated at the rate of \$.50 per x-ray.~~

~~(b) (d)~~ Each member shall be paid one hundred dollars (\$100.00) per month for conducting examinations and making reports and for assisting in any post mortem examinations when so directed by the North Carolina Industrial Commission.

Statutory Authority G.S. 97-69; 97-73; 130A-5(3).

SECTION .0600 - ASBESTOS HAZARD
MANAGEMENT PROGRAM

.0601 GENERAL

(a) The definitions contained in G.S. 130A-144 and the following definitions shall apply throughout this Section:

- (1) "Management Consultant" means a person who performs administration or oversight services before, during or after asbestos abatement activities.
- (2) "Air Monitor" means a person who performs visual inspections or takes air samples for abatement clearance activities or who takes ambient air samples in buildings.
- (3) "Program" means the Asbestos Hazard Management Program.

(b) ~~The Asbestos in Buildings Program (AIBP), Division of Health Services, has been designated by the Governor to implement The Asbestos Hazard Emergency Response Act, (AHERA), P.L. 99-519 and the Environmental Protection Agency (EPA) rules 40 CFR Part 763 and accompanying appendices, which have been adopted by reference in accordance with G.S. 150B-14(c).~~

Statutory Authority G.S. 130A-5(3); P.L. 99-519.

.0602 ACCREDITATION

(a) ~~No person shall commence or continue to engage in the business of performing inspections, writing management plans, designing abatement actions, performing abatement work or supervising abatement work relating to asbestos in schools perform asbestos management activities until that person has been accredited by the Program in the specific discipline for the activity being performed. appropriate accreditation category, except as provided for in G.S. 130A-447, (b) and (c).~~

(b) An applicant for accreditation shall meet the provisions of the "EPA Model Contractor Accreditation Plan" contained in 40 CFR 763 (Subpart E, appendix C).

(c) In addition to the requirements in (b), an applicant shall meet the following:

- (1) an applicant for initial accreditation shall have successfully completed an approved initial training course ~~or an approved refresher training course~~ within the 12 months immediately preceding application or, if initial training was completed more than 12 months prior to application, the applicant shall have successfully completed an approved refresher training course at least every 14 months from the date of completion of initial training to the date of application. If more than 14 months has elapsed between any training courses, initial training must be repeated;
- (2) an inspector shall have:
 - (A) a high school diploma or equivalent; and
 - (B) at least three months asbestos related experience under direct supervision of an accredited inspector, or at least one month of employment as an accredited supervisor, or at least six months employment as an accredited worker, or equivalent experience;
- (3) a management planner shall have a high school diploma or equivalent and shall be an accredited inspector; ~~and~~
- (4) a ~~contractor or~~ supervisor shall have:

- (A) a high school diploma or equivalent; and
 - (B) at least three months asbestos related experience as, or under the direct supervision of, an accredited supervisor or at least three months employment as an asbestos worker, or equivalent experience;
- (5) an abatement designer shall have:
- (A) a high school diploma or equivalent; and
 - (B) at least three months asbestos related experience as, or under the direct supervision of, an accredited abatement designer or at least three months employment as an accredited supervisor, or equivalent experience;
- (6) a management consultant shall:
- (A) be a professional engineer, registered architect or a certified industrial hygienist or have four years experience as an abatement designer or supervisor; and
 - (B) have one year experience in asbestos related work within the past four years and be accredited as a management planner and a designer.
- (7) an air monitor shall:
- (A) be a certified industrial hygienist or work only under the supervision of a certified industrial hygienist that is accredited as an air monitor; and
 - (B) have completed the National Institute for Occupational Safety and Health 582 training course or equivalent; and
 - (C) have three months asbestos related experience or equivalent within 12 months following the most recent accreditation or reaccreditation.
- (d) To obtain accreditation, the applicant shall submit, or cause to be submitted, the following information to the ~~Asbestos in Buildings Program~~ on application forms provided by the Program:
- (1) full name and social security number of applicant;
 - (2) name, address and telephone number of employer;
 - (3) discipline(s) applied for;
 - (4) date(s) of training course(s) for each discipline;
 - (5) name ~~and location (city and site)~~ of course attended;
 - (6) training agency name and address;
 - (7) confirmation of completion of an approved initial or refresher training course from the training agency; ~~sent directly to the program;~~ the confirmation shall be in the form of an original certificate of completion of the approved training course

- bearing the training agency's official seal, or ~~a letter~~ an original letter from the training agency confirming completion of the course on training agency letterhead, or ~~a list of an original letter from the training agency~~ listing names of persons who have successfully completed the training course, with the applicant's name included, on the training agency letterhead;
- (8) when education is a requirement, a copy of the diploma or other written documentation from the educational institution; and
- (9) when experience is a requirement, work history documenting asbestos related experience, including employer name, address, and phone number; positions held; and dates when the positions were held.
- (e) All accreditations, including accreditations issued prior to October 10, 1988, shall expire at the end of the 12th month following completion of required initial or refresher training. To be reaccredited, an applicant shall have completed the required refresher training course within 14 months after the initial or refresher training course. An applicant for reaccreditation shall also submit information specified in (d)(1)-(d)(7). If a person fails to obtain reaccreditation within two calendar months after the expiration date of original accreditation, that person may be accredited only by meeting the requirements of Paragraphs (b), (c), and (d).
- (f) ~~Pursuant to the requirements for refresher training courses in 40 CFR 763, Subpart F, Appendix C, the state has determined that refresher training courses shall include a review of the following key aspects of the initial training course:~~
- (1) ~~the refresher training course for all disciplines shall include a review of health effects of asbestos, respiratory protection, and personal protective equipment;~~
 - (2) ~~the refresher training course for inspector shall include a review of recordkeeping, writing the inspection report, inspecting for friable and non-friable asbestos-containing material, and assessing the condition of asbestos-containing building materials;~~
 - (3) ~~the refresher training course for management planner shall include a review of recordkeeping, management plan content, hazard assessment, determining an operations and maintenance plan, and selection of control options;~~
 - (4) ~~the refresher training course for abatement project designer shall include a review of designing abatement solutions;~~
- ~~budgeting, cost estimation, considerations for work in occupied buildings and writing abatement specifications;~~
- (5) ~~the refresher training course for contractor/supervisor shall include a review of state-of-the-art work practices, air monitoring and supervisory techniques; and~~
- (6) ~~the refresher training course for abatement workers shall include a review of state-of-the-art work practices, personal hygiene, and additional safety hazards.~~
- (f) Persons applying for reaccreditation as an air monitor shall have obtained at least one month of asbestos related experience within 12 months following the most recent accreditation or reaccreditation.
- (g) All accredited persons shall be assigned an accreditation number by the program.
- (h) ~~A list of approved training courses shall be available from the program.~~
- (h) (i) Upon request, a person accredited by another state shall be accredited by the program if that state's accreditation program is at least as stringent and as comprehensive as the accreditation program established by these rules.
- (i) (j) ~~The~~ In accordance with G.S. 130A-23, the Program may revoke accreditation or reaccreditation for any violation of G.S. 130A, Article 19 or any of the rules of this Section, or upon a finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue accreditation or reaccreditation. The Program may also revoke accreditation or reaccreditation upon a finding that the accredited person has violated a generally accepted, industrywide any standard or practice, and the violation creates a significant public health hazard, referenced in Rule .0606(e) of this Section. A person whose accreditation is revoked because of fraudulent misrepresentations or because of violations that create a significant public health hazard shall not be authorized to reapply for accreditation before three months after the revocation and must repeat the initial training course and other requirements as shown in Paragraphs (c)(1)-(c)(4) of this Rule.

Statutory Authority G.S. 130A-5(3); P.L. 99-519.

**.0603 ASBESTOS MANAGEMENT PLANS
(REPEALED)**

Statutory Authority G.S. 130A-5(3); P.L. 99-519.

.0604 APPROVAL OF TRAINING COURSES

(a) Pursuant to Rule .0602 of this Section, applicants for accreditation and reaccreditation are

required to successfully complete training courses approved by the Program. In order to be approved by the Program, training programs shall meet the requirements of 40 CFR 763, Subpart E, Appendix C, and the requirements of this Rule. A list of approved training courses shall be available from the Program.

(b) Refresher training courses shall include a review of the following key aspects of the initial training course:

- (1) the refresher training courses for all disciplines shall include a review of health effects of asbestos, respiratory protection, and personal protective equipment;
- (2) the refresher training course for inspector shall include a review of record keeping, writing the inspection report, inspecting for friable and non-friable asbestos-containing material, and assessing the condition of asbestos containing building materials;
- (3) the refresher training course for management planner shall include a review of record keeping, management plan content, hazard assessment, determining an operations and maintenance plan, and selection of control options;
- (4) the refresher training course for abatement project designer shall include a review of designing abatement solutions, budgeting/cost estimation, considerations for work in occupied buildings and writing abatement specifications;
- (5) the refresher training course for supervisor shall include a review of state-of-the-art work practices, air monitoring and supervisory techniques; and
- (6) the refresher training course for abatement worker shall include a review of state-of-the-art work practices, personal hygiene, and additional safety hazards.

(c) Training courses approved by the Environmental Protection Agency of any state authorized by the Environmental Protection Agency to approve training courses shall be deemed approved by the Program unless approval is suspended or revoked in accordance with Paragraph (g) of this Rule.

(d) Applicants for training course approval shall submit to the Program a description of the course content, including the instructor's guide, student handout materials, and a description of the required examination.

(e) Training course sponsors shall permit Program representatives to attend any training course without charge for the purpose of evaluating compliance with these rules.

(f) In accordance with G.S. 130A-23, the Program may suspend or revoke approval for a training course for violation of this Rule and shall suspend or revoke approval upon suspension or revocation of approval by the Environmental Protection Agency or any state authorized by the Environmental Protection Agency to approve training courses.

Statutory Authority G.S. 130A-5(3); 130A-447; P.L. 99-519.

.0605 ASBESTOS MANAGEMENT PLANS

(a) All Local Education Agencies shall submit Asbestos Management Plans for school buildings to the Program on forms provided by the Program. Asbestos Management Plans shall meet the requirements contained in 40 CFR 763.

(b) In addition to the requirements in Paragraph (a) of this Rule, the management plan shall comply with the following:

- (1) All Asbestos Containing Building Materials shall be identified, located, classified and assessed; and
- (2) The Local Education Agency shall notify the Program of asbestos removal projects within ten working days after the removal area has been cleared for occupancy.

Statutory Authority G.S. 130A-5(3); 130A-445; P.L. 99-519.

.0606 ASBESTOS CONTAINING MATERIALS REMOVAL PERMITS

(a) No person shall remove more than 35 cubic feet, 160 square feet or 260 linear feet of friable asbestos containing material, or non-friable asbestos containing material that may become friable during handling, without a permit issued by the Program. Other asbestos abatement activities are exempt from the permit requirements of G.S. 130A-449.

(b) Applications for asbestos containing material removal permits shall be submitted to and received by the Program at least ten working days prior to the scheduled removal date. However, for asbestos removal determined by the Program to require immediate action, the ten day notice shall not be required. The application shall be made on a form provided by the Program and shall contain the information in Paragraphs (b)(1)-(b)(9) of this Rule. If immediate action is necessary, the applicant shall supply the information required on the application plus an attachment containing the additional information in Paragraphs (b)(10)-(b)(13) of this Rule.

- (1) Contractor information;
- (2) Project location information;

- (3) Facility description;
 - (4) Removal dates;
 - (5) Description, location and amount of asbestos material to be removed;
 - (6) Permit fee information;
 - (7) Disposal methods;
 - (8) Notification of other agencies;
 - (9) Cause of damage relating to immediate problem;
 - (10) Date when damage occurred;
 - (11) Agency requesting immediate action;
 - (12) Public health affects; and
 - (13) Names of accredited personnel involved.
- (c) The permit holder shall notify the Program of any change in the removal schedule at least three working days prior to the removal.
- (d) Copies of the following shall be maintained on site during removal activities and be immediately available for review by the Program:
- (1) copy of the removal permit;
 - (2) applicable specifications and contract documents;
 - (3) disposal information, including any authorization for disposal;
 - (4) identification and accreditation information for all personnel performing removal activities.
- (e) All permitted removal activities shall be conducted in accordance with the Toxic Substances Control Act, 15 USC 2601; 29 CFR Parts 1910 and 1926; 40 CFR Parts 61 and 763; Environmental Protection Agency's Guidance for Controlling Asbestos-Containing Materials in Buildings, 560/5-85-024 except paragraphs 6.4.1 Visual Inspection and 6.4.2 Air Testing; Environmental Protection Agency's A Guide to Respiratory Protection for the Asbestos Abatement Industry, 560-OPTS-86-001 except Part II C. Respirator Selection; Environmental Protection Agency's Measuring Airborne Asbestos Following An Abatement Action, 600/4-85-049; American National Standards Institute's Respiratory Protection, Respirator Use, Physical Qualifications for Personnel, Z88.6-1984; American National Standards Institute's Practices for Respiratory Protection, Z88.2-1980; American National Standards Institute's Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2-1979; 49 CFR Part 173; G.S. Chapters 97 and 130A, which are hereby adopted by reference in accordance with G.S. 150B-14(c).
- (f) In accordance with G.S. 130A-23, the Program may suspend or revoke the permit for any violation of G.S. 130A, Article 19 or any of the rules of this Section. The Program may also revoke the permit upon a finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue the permit.

mation that materially affected the decision to issue the permit.

Statutory Authority G.S. 130A-5(3); 130A-449; P.L. 99-519.

.0607 FEES

(a) The fee required by G.S. 130A-450 shall be submitted with an application for the asbestos containing material permit. The amount of the fee is one percent of the contract price or twenty cents (\$0.20) per square or linear foot, whichever is greater. A permit shall not be issued until the required fee is paid. However, when the Program has determined that immediate action is necessary, the fee shall not be required to be submitted with the application, but shall be submitted to and received by the Program within five working days of issuance of the permit.

(b) The fee required by G.S. 130A-448 shall be submitted with an application for accreditation or reaccreditation. The amount of the fee shall be one hundred dollars (\$100.00) for each category, except that the fee for persons applying for accreditation or reaccreditation as workers shall be twenty-five dollars (\$25.00). A person shall not be accredited or reaccredited until the required fee is paid.

Statutory Authority G.S. 130A-5(3); 130A-448; 130A-450; P.L. 99-519.

.0608 ASBESTOS EXPOSURE STANDARD FOR PUBLIC AREAS

(a) The maximum allowable ambient asbestos level for public areas shall be 0.01 fibers per cubic centimeter of air based on the fiber level obtained during the actual sample time.

(b) The sampling and analysis method used to determine the ambient asbestos fiber level in buildings shall be either phase contrast microscopy or transmission electron microscopy.

(c) The sampling and analysis method used to determine the fiber level for clearance after an abatement action shall be either phase contrast microscopy or transmission electron microscopy, except that local education agencies shall meet Asbestos Hazard Emergency Response Act requirements.

(d) Phase contrast microscopy or transmission electron microscopy sampling and analysis methods shall be conducted in accordance with 40 CFR Part 763.

(e) Sample analysis for phase contrast microscopy or transmission electron microscopy samples shall be performed by a laboratory meeting the requirements of P.L. 99-519 and 40 CFR 763 and accompanying appendices.

Statutory Authority G.S. 130A-5(3); 130A-446; P.L. 99-519.

SUBCHAPTER 7G - VITAL RECORDS

SECTION .0300 - BIRTH REGISTRATION

.0302 LATE CERTIFICATES NOT SIGNED BY ATTENDANT

Certificates of birth filed after ~~five~~ ten days but within one year from the date of birth which are signed by someone other than the attendant must be accompanied by a statement from the local registrar stating why the certificate cannot be signed by the attendant. The State Registrar may require additional evidence in support of the facts of birth or an explanation for the delay in filing.

Statutory Authority G.S. 130A-92(7).

.0303 PHYSICIAN'S SIGNATURE

A birth certificate must be completed and signed by the physician or other person in attendance at birth within ~~five~~ ten days after birth. If the certificate has not been completed by the physician or other person in attendance within ~~five~~ ten days, the hospital administrator may complete and sign the certificate.

Statutory Authority G.S. 130A-92(7).

CHAPTER 8 - HEALTH: PERSONAL HEALTH

SUBCHAPTER 8A - CHRONIC DISEASE

SECTION .1200 - HEALTH CARE SERVICES IN THE HOME DEMONSTRATION PROGRAM

.1202 DEFINITIONS

The following definitions shall apply throughout this Section:

(21) "Demonstration Program Reimbursement Rate" is the:

- (a) agency rate or the maximum Medicaid rate, whichever is lower, for nursing services, home health aide services and therapy services, and home mobility aids and telephone alert systems; physicians services, physician assistant services, family nurse practitioner services, nutritionist services, psychologist services;
- (b) interim Medicare rate for medical social services, durable medical equipment and ancillary medical supplies; which includes home mobility aids and telephone alert systems; and
- (c) schedule of payments that shall be developed by the Division of ~~Health Services~~

Adult Health for assessment evaluation services, self-care education services, nutrition services, case management services, physicians services, physician assistant services, family nurse practitioner services, psychologist services and other covered services for which neither Medicaid nor Medicare has an established reimbursement rate.

Statutory Authority G.S. 130A-223.

SUBCHAPTER 8B - MATERNAL AND CHILD HEALTH

SECTION .0100 - SCHOOL HEALTH FUNDS

.0110 GENERAL

(a) The purpose of the school health fund is to enhance the provision of preventive, diagnostic, evaluative, and treatment and prosthetic services to school age children and by giving impetus to the development of cooperation to develop cooperative arrangements among local health departments, schools, the private medical sector health care providers and hospitals. Funds are provided to local health departments to assist families of eligible school children. ~~in the prevention of nuisance infections and in the prevention or correction of chronic, remediable physical defects.~~

(b) ~~Local health departments~~ The school health fund ~~are is~~ administered by the Child and Adolescent Section, Division of Maternal and Child Health, Branch, Division of Health Services, P.O. Box 2001, 27687, Raleigh, North Carolina 27602, 27611-7687.

Statutory Authority G.S. 130A-124.

.0111 ALLOCATION OF FUNDS

School health funds ~~are shall~~ be allocated to local health departments. One thousand dollars (\$1,000) per year shall be allocated for each county. ~~within the jurisdiction of the local health department.~~ Additional amounts are allocated per county based on ~~a determined amount per pupil in~~ each county's average daily attendance for the previous school year as shown in the records provided to the Division by the North Carolina Department of Public Instruction. The allocation of funds to any county may be modified to reflect actual utilization of funds.

Statutory Authority G.S. 130A-124.

.0112 BUDGETING OF FUNDS

School health funds ~~will shall~~ be budgeted as a separate line item entitled "School Health"

within each local health department's ~~Maternal and Child Health~~ budget.

Statutory Authority G.S. 130A-124.

.0113 CLIENT ELIGIBILITY

(a) To be eligible for services paid for through the school health fund, clients ~~must~~ shall:

- (1) meet the residency ~~and financial~~ requirements of 10 NCAC 4C;
- (2) meet the financial requirements of 10 NCAC 4C or the U.S. Department of Agriculture Financial Scale for the free lunch program;
- (3)(2) be less than 20 years of age; and
- (4)(2) be attending enrolled in a public or private school, grade kindergarten through grade 12. ~~and~~
- (4) ~~must have a health problem that without treatment may result in a chronic, remediable physical defect.~~

(b) When financial eligibility for school health funds is based upon the Free Lunch Program's income eligibility scale, written verification ~~must~~ shall be obtained from the local school system and retained for audit purposes or a financial determination shall be performed by the local health department.

Statutory Authority G.S. 130A-124.

.0114 USE OF SCHOOL HEALTH FUNDS

(a) School health funds may be used:

- (1) to provide reimbursement for the following services: ~~preventive, diagnostic, evaluative, treatment, and prosthetic medical or dental services, and prescription medications required for the prevention or correction of chronic, remediable physical defects in eligible school children.~~
 - (A) preventive, diagnostic and evaluative treatment services;
 - (B) psychosocial, emotional and nutritional counseling; and
 - (C) medications.
- (b) ~~Medications may be purchased in bulk using school health funds~~
- (2) to purchase bulk medications under the following conditions:
 - (A)(4) Written approval for the purchase and use of such medications is obtained from the medical consultant to the local health department;
 - (B)(2) The proper use of such medications is described by in the written standing orders of a person entitled to prescribe medications in North Carolina; or

(C) Medications for the treatment of infestations are distributed without preauthorization to school age children and for their immediate families.

- (3) ~~That when appropriate, such medications are dispensed to patients in accordance with state and federal laws and regulations;~~
- (4) ~~Distribution of medications purchased with school health funds must be made on a preauthorized basis and only to eligible children. The only exception to this requirement is in the distribution of bulk medications to school-age children and their immediate families for treatment of nuisance infestations.~~
- (b) ~~(e)~~ School health funds shall not be used for the following:
 - (1) salaries of personnel;
 - (2) transportation;
 - (3) office supplies or equipment;
 - (4) mass preventive services (water fluoridation, for example);
 - (5) services covered by other third party reimbursement sources when the health department has knowledge of coverage at time of authorization;
 - (6) ~~care of acute injuries unless the health director or medical consultant authorizes the care as required to prevent a chronic, remediable physical defect; services mandated to be provided by another public agency;~~
 - (7) ~~orthodontic treatment; except for those orthodontic preventive treatment services as defined in the American Dental Association's Code on Dental Procedures and Nomenclature.~~
 - (8) inpatient services; and
 - (9) health department services except as allowed in Rule .0115(d) of this Section.

Statutory Authority G.S. 130A-124.

.0115 AUTHORIZATION AND REIMBURSEMENT

(a) The local health department shall authorize each service sponsored by school health funds, ~~with the one exception except~~ as stated in Subparagraph ~~(b)(4)~~ (a)(2) of Rule .0114.

(b) The authorization shall be sent to the anticipated providers of care for each authorized service. The authorization shall include, ~~but not be limited to~~ at least the following information:

- (1) name of client;
- (2) ~~medical-dental~~ service authorized;
- (3) expiration date of authorization;
- (4) amount authorized; and

(5) signature of authorizing official.

(c) The local health department shall negotiate rates of reimbursement for services to be provided under the school health fund. These rates shall not exceed the Medicaid rate of reimbursement in effect at the time the claim is received by the Division.

(d) Services provided by a dentist employed by the local health department ~~can~~ may be charged to school health funds. Claims ~~must~~ shall be paid at a rate not to exceed the current Medicaid rate in effect for dental services provided in local health departments.

(e) If a local health department's dental program is supported by other state ~~and/or~~ or federal dollars, the local health department ~~must~~ shall be able to demonstrate that ~~the~~ total dental charges to the school health fund ~~does~~ do not exceed the difference between the total cost of the dental program and the total state ~~and/or~~ or federal dollars going into the dental program.

(f) Services provided by public health dentists employed by the Division ~~may~~ shall not be charged to school health funds.

(g) Other rules governing authorization and billing ~~processing~~ procedures, payment limitations, and limitations on billing clients sponsored by school health funds are found in 10 NCAC 4C.

Statutory Authority G.S. 130A-124.

.0116 MONITORING AND EVALUATION

The local health department shall complete and submit the annual school health fund report (DHHS 3147) to the Division of Maternal and Child Health, Branch.

Statutory Authority G.S. 130A-124.

SECTION .0900 - RURAL OBSTETRICAL CARE INCENTIVE FUNDS

.0902 APPLICATION FOR FUNDS

(b) A county is considered underserved with respect to obstetrical care if the county meets one or more of the following criteria, listed in order of priority:

- (4) the county has inadequate obstetrical coverage, demonstrated by such factors as a waiting list of 28 calendar days or more for an appointment at the public prenatal clinic; ~~or~~ 50 percent or more of resident live-births ~~occurring~~ occur outside of the county; the five year infant mortality or premature birth rate is greater than the five year state rate; the percentage of resident live births to women who received

no prenatal care or inadequate prenatal care exceeds the state rate; 50 percent or less of physicians who practice obstetrics in the county except Medicaid recipients in their private practice; more than 15 percent of resident live births are to women who receive their prenatal care from public clinics; the percentage of resident live births to women who initiated prenatal care in the first trimester is lower than the state rate; or the percentage of resident live births to women who initiated prenatal care in the third trimester is greater than the state rate.

- (5) ~~implementation of these rules would preserve county obstetrical services threatened with discontinuation.~~

Statutory Authority S. L. 1987, c. 1100, s. 39.3.

.0904 DISBURSEMENT OF FUNDS

(a) Subject to the availability of funds, the Maternal and Child Health Branch shall disburse rural obstetrical care incentive funds to local health departments that have submitted an approved application as follows:

- (1) first priority shall be given to those counties that meet the criteria in Rule .0902(b)(1), second priority shall be given to those counties that meet the criteria in Rule .0902(b)(2), third priority shall be given to those counties that meet the criteria in Rule .0902(b)(3), and fourth priority shall be given to those counties that meet one or more of the criteria in Rule .0902(b)(4); and fifth priority shall be given to those counties that meet the criteria in Rule .0902(b)(5);
- (3) counties funded ~~during FY 1988-89~~ shall receive ongoing funding based upon a renewal application that has been reviewed and approved by the Division of Maternal and Child Health, which continues to meet the requirements of Rule .0902.

Statutory Authority S. L. 1987, c. 1100, s. 39.3.

.0906 PARTICIPATION REQUIREMENTS FOR PHYSICIANS

(a) A participating physician shall:

- (5) agree to serve Medicaid recipients who request prenatal care through the physician's private practice or the local health department or other public clinic.

Statutory Authority S. L. 1987, c. 1100, s. 39.3.

PROPOSED RULES

SUBCHAPTER 8C - NUTRITION AND DIETARY SERVICES

SECTION .1100 - WIC PROGRAM FOOD DISTRIBUTION SYSTEM

.1106 AUTHORIZED WIC VENDORS

(b) In order to participate in the WIC program, the vendor shall:

- (16) Maintain a minimum inventory of eligible food items in the store for purchase by WIC Program participants. All such foods shall be within the manufacturer's expiration date. The following items and sizes constitute the minimum inventory of eligible food items for stores classified 1 - 4:

Food Item	Type of Inventory
Milk	Whole fluid: gallon and half gallon -and- Skim/lowfat fluid: gallon or half gallon Nonfat dry: quart package -or- Evaporated: 12 oz. can
Cheese	2 types
Cereals	4 types (minimum box size 7 oz.)
Eggs	Grade A, large or extra-large: white or brown
Juices	Orange juice must be available in 2 types. A second flavor must be available in 1 type. The types are: 12 oz. frozen, 46 oz. can, 64 oz. container
Dried Peas and Beans	2 types
or Peanut Butter	18 oz. jars
Infant Fruit Juice	2 juices; 4.2 oz. jars
Infant Cereal	2 cereal grains; 8-oz. boxes (one must be rice)
Infant Formula	2 types; or 1 type contracted for by the WIC program and designated on the food instrument; 13 oz. concentrate

Quantities Required

Total of 6 gallons fluid milk

Total of 5 quarts when reconstituted

Total of 6 pounds
Total of 12 boxes

6 dozen

6 of each type in stock

3 one-pound bags
3 jars

30 jars

6 boxes

62 cans

For store classification 5, the following applies: Supply within 48 hours of verbal request by local WIC agency staff any of the following products: Nutramigen, Portagen, Pregestimil, Similac Special Care 24, Similac 60/40, Similac (Low-Iron), Enfamil (Low-Iron), SMA Low Iron, Ensure, Ensure Plus, Osmolite, Sustacal IIC, Sustacal, Isocal, Enrich, Enfamil Premature, PediaSure, Polycose and MCT Oil. All vendors (classifications 1 through 5) shall supply milk or soy based, 32 oz. ready-to-feed or powdered infant formula upon request.

Statutory Authority G.S. 130A-361.

CHAPTER 9 - HEALTH: LABORATORY

SUBCHAPTER 9D - CERTIFICATION AND IMPROVEMENT

**SECTION .0300 - LABORATORY
CERTIFICATION**

.0309 CHEMISTRY QUALITY CONTROL

(d) In addition, analysis for regulated volatile organic chemicals under 10 NCAC 10D .1624(c) shall only be conducted by laboratories that have received conditional approval by EPA or the Department according to 40 C.F.R. 141.24(G)(10) and (11) which is hereby adopted by reference pursuant to G.S. 150B-14(c).

(e) Analysis for unregulated volatile organic chemicals under 10 NCAC 10D .1638 shall only be conducted by laboratories approved under Paragraph (d) of this Rule. In addition to the requirements of Paragraph (d) of this Rule, each laboratory analyzing for EDB and DBCP shall achieve a method detection limit for EDB and DBCP of 0.00002 mg/l, according to the procedures in Appendix B of 40 C.F.R. Part 136 which is hereby adopted by reference pursuant to G.S. 150B-14(c).

Statutory Authority G.S. 130A-315.

.0317 MICROBIOLOGY QUALITY CONTROL

Requirements for quality control of microbiological analyses are as follows:

(4) An acceptable performance level of 75 percent shall be maintained for each analyte for which a laboratory is or wishes to be certified. This 75 percent average shall be calculated from the ten most recent performance sample data points from the water performance studies, double-blind, blind, and on-site samples (when available).

Statutory Authority G.S. 130A-315.

**CHAPTER 10 - HEALTH SERVICES:
ENVIRONMENTAL HEALTH**

SUBCHAPTER 10A - SANITATION

**SECTION .0400 - SANITATION OF
RESTAURANTS AND OTHER FOODHANDLING
ESTABLISHMENTS**

.0443 DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this Section:

(1) "Approved" means determined by the Department to be in compliance with this Section. Food service equipment which meets National Sanitation Foundation standards or equal shall be considered as approved. Food which complies with requirements of the North Carolina Department of Agriculture or United States Department of Agriculture and the

requirements of this Section shall be considered as approved.

- (2) "Department of ~~Human Resources Environment, Health and Natural Resources~~" or "Department" means the North Carolina Department of ~~Human Resources Environment, Health and Natural Resources~~. The term also means the authorized representative of the Department.
- (3) "Drink stand" means and includes those establishments in which only beverages are prepared on the premises and are served in containers (glasses, mugs, etc.) other than single-service containers.
- (4) "Eating and cooking utensils" means and includes any kitchenware, tableware, glassware, cutlery, utensils, containers, or other equipment with which food or drink comes in contact during storage, preparation, or serving.
- (5) "Employee" means any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed at any time in a room in which food or drink is prepared or served.
- (6) "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
- (7) "Food stand" means and includes those food service establishments which prepare or serve foods and which do not provide seating facilities on the premises for customers. Establishments which only serve such items as dip ice cream, popcorn, candied apples, or cotton candy are not included. ~~due to the lack of public health significance.~~
- (8) "Hermetically sealed container" means a container designed and intended to be secure against the entry of micro-organisms and to maintain the commercial sterility of its contents after processing.
- (9) "Local Health Director" means the administrative head of a local health department or his authorized representative.
- (10) "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily moved.
- (11) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, or company.
- (12) "Potentially hazardous food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including *Clostridium botulinum*. This term

includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.

- (13) "Private club" means a private club as defined in G.S. 130A-247(2). any establishment which maintains selective membership, is operated by the membership, and is not profit oriented.
- (14) "Pushcart" means a self-propelled or nonself-propelled vehicle on which food or drink may be prepared, handled, or served.
- (15) "Responsible person" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee is the responsible person.
- (16) "Restaurant" means all establishments and operations, including drink stands, where food is prepared or served at wholesale or retail for pay or, any other establishment or operation where food is prepared or served that is subject to the provisions of G.S. 130A-248. Due to the lack of public health significance. The term does not include establishments which only serve such items as dip ice cream, popcorn, candied apples, or cotton candy.
- (17) "Sanitarian" means a qualified person authorized to represent the Department of Human Resources Environment, Health and Natural Resources on the local or state level in making inspections pursuant to state laws and rules.
- (18) "Sanitize" means the approved bactericidal treatment by a process which provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.
- (19) "Sewage" means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.
- (20) "Single service" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended for one-time, one person use and then discarded.
- (21) "Temporary food or drink stand" means and includes those food or drink stands

which operate for a period of two weeks 15 days or less, as in connection conjunction with a fair, carnival, circus, public exhibition, or other similar gathering.

- (22) "Temporary restaurant" means a restaurant, as defined in Paragraph (16) of this Rule, that operates for a period of two weeks 15 days or less, as in connection conjunction with a fair, carnival, circus, public exhibition, or other similar gathering.

Statutory Authority G.S. 130A-248.

.0444 PERMITS

~~(a) No person shall operate a restaurant, temporary restaurant, food stand, drink stand, or temporary food or drink stand within the State of North Carolina who does not possess an unrevoked permit from the Department of Human Resources.~~

~~(a) (b)~~ No permit to operate shall be issued to a person until a sanitary survey by a sanitarian shows that the establishment complies with this Section.

(b) Upon transfer of ownership of an existing food service establishment, an authorized sanitarian shall complete a sanitary survey. If the establishment satisfies all the requirements of the rules, a permit shall be issued. If the establishment does not satisfy all the requirements of the rules, a permit shall not be issued. However, if a sanitarian determines that the noncompliant items are only construction or equipment problems that do not represent a threat to the public health, a transitional permit may be issued. The transitional permit shall expire 60 days after the date of issuance, unless suspended or revoked before that date, and cannot be renewed. Upon expiration of the transitional permit, the owner or operator shall have corrected the noncompliant items and obtained a permit, or the food service establishment cannot continue to operate.

~~(c) A permit issued to one person is not transferable to another person.~~

(c) Sanitarians may impose conditions on the issuance of a permit or transitional permit that makes the permit subject to one or more of the following limitations:

- (1) The number of seats or persons served.
- (2) The categories of food served.
- (3) Schedules in completing small construction items.
- (4) To modify or maintain wells or springs used as a water supply.
- (5) Dual use of facilities.
- (6) Shared solid waste and can wash facilities.
- (7) Continuation of contractual arrangements upon which basis the permit was issued.

(8) Submission and approval of plans for renovation.

(9) Any other condition necessary for a food service operation to remain in compliance with this Section.

(d) A permit is issued by and inspections are made by local and state sanitarians, who are authorized representatives of the Department of ~~Human Resources~~. Environment, Health and Natural Resources.

(e) A permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the facility to maintain a minimum grade of C. A permit may otherwise be suspended or revoked in accordance with 130A-23. A new permit to operate shall be issued only after the establishment has been resurveyed by a sanitarian and found to comply with this Section. This resurvey will be conducted within a reasonable length of time after the request is made by the operator.

(e) If a permit has been suspended or revoked, the suspension shall be lifted or a new permit shall be issued only after the establishment has been resurveyed by a sanitarian and found to comply with this Section. This resurvey shall be conducted within a reasonable length of time after the request is made by the operator.

Statutory Authority G.S. 130A-248.

SECTION .2500 - PUBLIC SWIMMING POOLS

.2501 PREAMBLE

Whereas the North Carolina General Assembly has enacted Part 10 of Article 8 of G.S. 130A - Public Swimming Pools - which requires the Commission for Health Services to establish construction and operation requirements for public swimming pools in North Carolina; and whereas Senate Bill 386 requires the Commission for Health Services to establish such requirements by February 1, 1990; and whereas the Commission finds that additional time is needed to develop comprehensive rules in this area, now, therefore, be it resolved that the Commission for Health Services adopts the rules of this Section as an interim measure to assure implementation of a public swimming pool program on February 1, 1990.

Statutory Authority S.L. 1989, c. 577.

.2502 DEFINITIONS

The following definitions shall apply throughout this Section:

(1) Department means the Department of Environment, Health, and Natural Resources.

(2) Public swimming pool means public swimming pool as defined in G.S. 130A-280.

(3) Remodeled means renovations requiring disruption of the pool shell or deck or replacement of major components of the pool hydraulic system. Remodeled does not include repairs.

(4) Repair means replacement of individual components of the hydraulic equipment such as pumps, filters, and drain covers.

Statutory Authority S.L. 1989, c. 577.

.2503 PUBLIC SWIMMING POOL OPERATION PERMITS

(a) No public swimming pool shall commence or continue operation on or after February 1, 1990 unless the owner or operator has an operation permit issued by the Department for each public swimming pool. Unless suspended or revoked, the operation permit shall be valid for the period of operation specified in the application but in no event shall it be valid for more than 12 months. For public swimming pools which are constructed or remodeled after February 1, 1991, no operation permit shall be issued unless plans and specifications prepared by a registered professional engineer have been approved by the Department. Compliance with the design and construction requirements in Rule .2505(a) of this Section and approval of plans and specifications shall not be required for public swimming pools constructed or remodeled prior to February 1, 1991.

(b) For public swimming pools which are repaired after February 1, 1991, all repairs and repair components shall comply with Rule .2505(a) of this Section and shall be approved by the Department prior to installation. Engineered plans and specifications may be required for repairs.

(c) If a local board of health has adopted rules prior to July 5, 1989 that establish public swimming pool standards, public swimming pools in that county or district must meet those standards until February 1, 1992. On or after February 1, 1992, all public swimming pools must meet these rules; however, public swimming pools permitted under local rules prior to February 1, 1992 shall not be required to meet the design and construction requirements of these rules.

(d) A separate application for an operation permit must be submitted for each public swimming pool. To apply for an annual operation permit, the owner or operator shall submit the following information on a form provided by the Department to the Department:

(1) the owner's name, address, and phone number;

- (2) the operator's name, address, and phone number;
- (3) street address of the public swimming pool;
- (4) the physical location of the public swimming pool;
- (5) type of public swimming pool;
- (6) construction date;
- (7) proposed operating date;
- (8) type of sanitizer;
- (9) other pertinent information.

Statutory Authority S.L. 1989, c. 577.

.2504 INSPECTIONS

Each public swimming pool shall be inspected by the Department at least once during the period of operation to determine compliance with the rules of this Section.

Statutory Authority S.L. 1989, c. 577.

.2505 DESIGN AND CONSTRUCTION STANDARDS

(a) Public swimming pools shall be designed by a registered professional engineer in accordance with National Spa and Pool Institute, Minimum Standards for Public Swimming Pools; Public Health Service, Suggested Health and Safety Guidelines for Public Spas and Hot Tubs; or the American Public Health Association, Public Swimming Pools: Recommended Regulations for Design and Construction, Operation and Maintenance, which is hereby adopted by reference in accordance with G.S. 150B-14(c).

(b) Prior to approval by the Department, plans and specifications shall be submitted to the Department and shall include verification by the design engineer that the plans and specifications comply with the requirements in Paragraph (a) of this Rule.

(c) Prior to issuance of the operation permit, the owner shall submit to the local health department a statement signed by a registered professional engineer stating that construction is complete and in accordance with approved plans and specifications and approved modifications. Periodic observations of construction and a final inspection for design compliance by the certifying registered professional engineer or his representative shall be required for this statement. The statement shall be affixed with the registered professional engineer's seal.

Statutory Authority S.L. 1989, c. 577.

.2506 WATER QUALITY STANDARDS

Swimming pool water quality shall be maintained in accordance with the following:

- (1) The chemical quality of the water shall be maintained in an alkaline condition at all times with the pH between 7.2 and 8.2 and the total alkalinity between 80 and 150 parts per million.
- (2) The clarity of the water shall be maintained such that the main drain grate is readily visible from the pool deck at all times.
- (3) Disinfection shall be provided for all pools by a chemical or other process that has been accepted by the Department and meets the criteria listed as follows:
 - (a) Registered with the U.S. Environmental Protection Agency as a disinfectant or disinfectant process for pool water or potable water.
 - (b) Provides a residual effect in the pool water which can be measured by simple portable field test equipment.
 - (c) Compatible when used in conjunction with other chemicals normally used in pool water treatment.
 - (d) Will not impart toxic qualities to the pool water in excess of that which occurs during proper chlorination procedures when used as directed.
 - (e) Will not impart any immediate or cumulative adverse physiological effects to pool bathers when used as directed.
 - (f) Will not produce any undue safety hazard when stored or used as directed.
 - (g) Will not damage or cause excessive wear of pool components or equipment.
- (4) When chlorine is used as the disinfectant, a free chlorine residual of at least 1.0 part per million (ppm) but no more than 4 ppm and a pH of between 7.2 and 7.8 shall be maintained throughout the pool whenever it is open or in use. A pool may be operated with a pH as high as 8.2 provided that a free chlorine residual above 1.5 parts per million is maintained. Pools which use chlorine as the disinfectant must be stabilized with cyanuric acid except at indoor pools or where it can be shown that cyanuric acid is not necessary to maintain a stable free chlorine residual. Normal cyanuric acid level must be between 25 and 60 parts per million. A pool may be operated with cyanuric acid levels as high as 60 to 100 parts per million provided that a free chlorine residual of at least 2.0 parts per million is maintained.
- (5) When bromine or compounds of bromine are used as the disinfectant, a free bromine residual of at least 1.5 parts per million and

a pH of between 7.2 and 8.2 must be maintained throughout the pool whenever it is open or in use.

- (6) Automatic chemical feeders that are NSF listed shall be used when chlorine, bromine, or compounds of bromine are used as a disinfectant. Feeders shall be installed in accordance with NSF standards.

Statutory Authority S.L. 1989, c. 577.

.2507 REVOCATION OF PERMITS

The Department may suspend or revoke permits in accordance with G.S. 130A-23.

Statutory Authority S.L. 1989, c. 577.

.2508 APPEALS

Appeals shall be made in accordance with G.S. 150B.

Statutory Authority S.L. 1989, c. 577.

SUBCHAPTER 10G - SOLID WASTE MANAGEMENT

SECTION .1000 - MEDICAL WASTE MANAGEMENT

.1001 DEFINITIONS

For the purpose of the Section, the following definitions apply:

- (1) "Blood and body fluids" means liquid blood, serum, plasma, other blood products, spinal fluid, dialysate, pleural and peritoneal fluids.
- (2) "Class A Medical Waste" means blood and body fluids in individual containers in volumes greater than 20 ml., microbiological waste, and pathological waste that have not been treated pursuant to Rule .1007 of this Section.
- (3) "Class B Medical Waste" means blood and body fluids in individual containers in volumes of 20 ml or less and sharps in puncture resistant containers.
- (4) "Generating facility" means a hospital, clinic, funeral home, laboratory, or other facility which generates medical waste.
- (5) "Medical waste" means any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include hazardous waste, radioactive waste, household waste as defined in 40 Code of Federal Regulations 261.4(b)(1) in effect on 1 July 1989, or those substances

excluded from the definition of "solid waste" in this Section.

- (6) "Microbiological waste" means cultures and stocks of infectious agents, including but not limited to specimens from medical, pathological, pharmaceutical, research, commercial, and industrial laboratories.
- (7) "Pathological waste" means human tissues, organs and body parts, and the carcasses and body parts of all animals that were exposed to pathogens in research, were used in the production of biologicals or in vivo testing of pharmaceuticals, or that died of known or suspected disease transmissible to humans.
- (8) "Sharps" means and includes needles, syringes with attached needles, capillary tubes, slides and cover slips, and scalpel blades.
- (9) "Treatment" as defined in 130A-309.26 (a)(2).

Statutory Authority G.S. 130A-309.26.

.1002 GENERAL REQUIREMENTS FOR MEDICAL WASTE

- (a) Medical waste is subject to all applicable rules in 10 NCAC 10G.
- (b) Sharps shall be placed directly into a rigid and puncture-resistant container upon generation. Removal of sharps from containers for any purpose prior to treatment or disposal in a sanitary landfill is prohibited.
- (c) All medical waste transported from the generating facility for off-site treatment is subject to the requirements of Class A Medical Waste.

Statutory Authority G.S. 130A-309.26.

.1003 GENERAL REQUIREMENTS FOR CLASS A MEDICAL WASTE

- (a) Class A Medical waste shall be treated prior to disposal. Acceptable methods of treatment are as follows:
 - (1) blood and body fluids - Incineration or sanitary sewage systems;
 - (2) microbiological waste - Incineration, steam sterilization, or chemical treatment;
 - (3) pathological wastes - Incineration.
- (b) Other methods of treatment shall require approval by the Division.
- (c) Class A medical waste shall be stored in a manner that:
 - (1) prevents leakage of the contents of the package; and
 - (2) permits access only to authorized personnel.

Statutory Authority G.S. 130A-309.26.

**.1004 REQUIREMENTS FOR GENERATORS
OF CLASS A MEDICAL WASTE**

A person who generates Class A medical waste that is not treated at the generating facility shall meet the following requirements with respect to such waste:

- (1) Class A medical waste other than sharps shall be packaged in a minimum of two 3-mil. polyethylene equivalent bags, and placed in a 175-pound, burst strength, single-walled corrugated fiberboard box which is rigid and leak resistant.
- (2) Class A medical waste shall be stored in a manner that maintains the integrity of the packaging.
- (3) Each package of Class A medical waste shall be labeled with a water-resistant identification tag containing the universal biohazard symbol.
- (4) Each package of Class A medical waste shall be marked with the following information:
 - (a) the generator's name, address, and telephone number;
 - (b) the transporter's name, address, and telephone number;
 - (c) storage facility name, address, and telephone number, when applicable; and
 - (d) treatment facility name, address and telephone number; and
 - (e) date of shipment.
- (5) Records of Class A medical wastes shall be maintained for each shipment and shall include the information listed in this Paragraph. This information shall be maintained at the generating facility for no less than three years. This requirement shall not apply to persons who generate less than 50 pounds of Class A medical waste per month.
 - (a) amount of waste by number of packages (piece count);
 - (b) date shipped off site;
 - (c) name of transporter;
 - (d) name of storage and/or treatment facility.
- (6) A plan to ensure proper management of Class A medical waste shall be prepared and maintained at the facility.

Statutory Authority G.S. 130A-309.26.

**.1005 REQUIREMENTS FOR TRANSPORTERS
OF CLASS A MEDICAL WASTE**

A person who transports Class A medical waste that is not treated at the generating facility shall meet the following requirements with respect to such waste:

- (1) Class A medical waste shall be transported in a manner that prevents leakage of the contents of the package.
- (2) The integrity of the package shall be maintained at all times.
- (3) The labeling and marking of the package shall be maintained at all times.
- (4) The universal biohazard symbol shall be displayed on all transportation vehicles, in accordance with Department of Transportation Standards and 49 CFR 172 Subpart F.
- (5) Class A medical waste shall be delivered to a permitted storage or treatment facility within seven calendar days of the date of shipment from the generator.
- (6) Refrigeration at an ambient temperature between 35 and 45 degrees Fahrenheit shall be provided for Class A medical waste that will not be delivered for treatment within seven calendar days.
- (7) A plan shall be prepared and maintained in each vehicle used in the transporting of Class A medical waste. The operator of each vehicle shall be knowledgeable of the plan.
- (8) Vehicles used for the transportation of Class A medical waste shall be thoroughly cleaned and disinfected with a mycobacteriocidal disinfectant before being used for any other purpose and in the event of leakage from packages.
- (9) Vehicles are prohibited from transporting any material other than solid waste with Class A medical waste.

Statutory Authority G.S. 130A-309.26.

**.1006 REQUIREMENTS FOR STORAGE OF
CLASS A MEDICAL WASTE**

A person who stores Class A medical waste shall meet the following requirements:

- (1) Class A medical waste shall be stored in a manner that prevents leakage of the contents of the package.
- (2) The integrity of the package shall be maintained at all times.
- (3) The labeling and marking of the package required in Rule .1004 of this Section shall be maintained at all times.
- (4) Class A medical waste shall not be stored longer than seven calendar days from the date of shipment from the generator unless the Class A Medical Waste is refrigerated at an ambient temperature between 35 and 45 degrees Fahrenheit.
- (5) Areas used to store Class A medical waste shall permit access only authorized personnel.

- (6) All areas used to store Class A medical waste shall be kept clean. Neither carpets nor floor coverings with seams shall be used in storage areas. Vermin and insects shall be controlled.
- (7) All floor drains shall discharge directly to an approved sanitary sewage system. Ventilation shall be provided and shall discharge so as not to create nuisance odors.
- (8) A plan shall be prepared, maintained and updated as necessary to ensure continued proper management of Class A medical waste at the facility.

Statutory Authority G.S. 130A-309.26.

.1007 REQUIREMENTS FOR TREATMENT OF CLASS A MEDICAL WASTE

A person who treats Class A medical waste shall meet the following specific requirements for each type of treatment in addition to the requirements in Rule .1003 of this Section:

(1) Steam Sterilization:

- (a) Steam under pressure shall be provided to maintain a minimum temperature of 250 degrees Fahrenheit for 45 minutes at 15 pounds per square inch of gauge pressure during each cycle.
- (b) The steam sterilization unit shall be provided with a chart recorder which accurately records time and temperature of each cycle.
- (c) The steam sterilization unit shall be provided with a gauge which indicates the pressure of each cycle.
- (d) Monitoring under conditions of full loading for effectiveness of treatment shall be performed no less than once per week through the use of biological indicators or other methods approved by the Division.
- (e) Class A medical waste shall not be disposed of unless monitoring as required in Paragraph (1)(b) of this Rule confirms the effectiveness of treatment.
- (f) A log of each test of effectiveness of treatment performed shall be maintained and shall include the type of indicator used, date, time, and result of test.
- (g) Each package or container of Class A medical waste to be treated shall be provided with tape which will indicate if operational temperatures are reached.
- (h) Thermo-sensitive indicator tape required in Paragraph (1)(g) of this Rule shall remain attached to all packages and containers of treated waste shipped for ultimate disposal.

- (i) Refrigeration at an ambient temperature between 35 and 45 degrees Fahrenheit shall be maintained for Class A medical waste not treated within seven calendar days of the date of shipment from the generator.
- (j) Class A medical waste shall be stored prior to treatment for no more than seven calendar days after receipt.
- (k) Class A medical waste shall be stored no longer than five calendar days after treatment.
- (l) Areas used to store Class A medical waste shall permit access only to authorized personnel.
- (m) All areas used to store Class A medical waste shall be kept clean. Neither carpets nor floor coverings with seams shall be used in storage areas. Vermin and insects shall be controlled.
- (n) Prior to treatment, all Class A medical waste shall be confined to the storage area.
- (o) All floor drains shall discharge directly to an approved sanitary sewage system. Ventilation shall be provided and shall discharge so as not to create nuisance odors.
- (p) A plan shall be prepared, maintained and updated as necessary to ensure continued proper management of Class A medical waste at the facility.
- (q) Records of Class A medical waste shall be maintained for each shipment and shall include the information listed in this Paragraph. This information shall be maintained at the treatment facility for no less than three years. This requirement shall not apply to Class A medical waste that is treated at the generating facility.
 - (i) name of generator;
 - (ii) date received;
 - (iii) amount of waste received by number of packages (piece count) from each generator;
 - (iv) date treated.

(2) Incineration:

- (a) Class A medical waste shall be subjected to a burn temperature of not less than 1600 degrees Fahrenheit in the primary chamber. Gases generated by the combustion shall be subjected to a temperature of not less than 1850 degrees Fahrenheit for a period of not less than two seconds.
- (b) Interlocks or other process control devices shall be provided to prevent operation of the incinerator until the conditions in Paragraph (2)(a) of this Rule can be

- achieved. Automatic auxiliary burners which are capable, excluding the heat content of the wastes, of independently maintaining the secondary chamber temperature at the minimum of 1850 degrees Fahrenheit shall be provided.
- (c) Continuous monitoring and recording of primary and secondary chamber temperatures shall be performed. Monitoring data shall be maintained for a period of three years.
 - (d) All combustible waste shall be converted by the incineration process into ash that is not recognizable as to its former character.
 - (e) An Air Quality Permit shall be obtained from the Division of Environmental Management prior to operation.
 - (f) Refrigeration at an ambient temperature between 35 and 45 degrees Fahrenheit shall be provided for Class A medical waste not treated within seven calendar days of the date of shipment from the generator.
 - (g) Areas used to store Class A medical waste shall permit access only to authorized personnel.
 - (h) All areas used to store Class A medical waste shall be kept clean. Neither carpets nor floor coverings with seams shall be used in storage areas. Vermin and insects shall be controlled.
 - (i) Class A medical waste shall not be stored for more than seven calendar days after receipt.
 - (j) Prior to treatment, all Class A medical waste shall be confined to the storage area.
 - (k) All floor drains shall discharge directly to an approved sanitary sewage system. Ventilation of storage area shall be provided and shall discharge so as not to create nuisance odors.
 - (l) A plan shall be prepared, maintained and updated as necessary to ensure proper management of Class A medical waste at the facility.
 - (m) Records of Class A medical waste shall be maintained for each shipment and shall include the information listed in this Paragraph. This information shall be maintained at the treatment facility for no less than three years. This requirement shall not apply to Class A medical waste that is treated at the generating facility.
 - (i) name of generator;
 - (ii) date received;
 - (iii) amount of waste received by number of packages (piece count) from each generator;
 - (iv) date treated.
 - (n) A representative sample of 250 milliliters of ash from the ash discharge or the ash discharge conveyor shall be collected once every eight hours of operation of a continuously fed incinerator and once every 24 hours of operation of a batch fed incinerator. Samples collected after every 1000 hours of operation, or quarterly, whichever occurs more frequently, shall be thoroughly mixed and seven random portions of equal volume shall be composited into one sample for laboratory analysis. This sample shall be tested in accordance with provisions of Rule .0103(e) of this Subchapter and submitted to the N.C. Solid Waste Section for evaluation as to final disposal.
 - (o) A log shall be kept documenting ash sampling, which shall include the date and time of each sample collected; the date, time, and identification number of each composite sample; and the results of the analyses, including laboratory identification.
 - (p) Records of stack testing as prescribed in the Air Quality Permit shall be maintained at the facility.
 - (q) Existing generating facilities that only treat Class A medical waste generated at their facility are not subject to Paragraphs (2)(a), (b), and (c) until January 1, 1995.
- (3) Chemical Treatment:
- (a) Approval for treatment must be obtained from the Division.
 - (b) Request for approval must be substantiated by results of demonstrated effectiveness of the chemical to treat the specific microbiological agent(s) of concern for the waste disposed. Consideration must be given to such factors as temperature, time of contact, pH, concentration and the presence and state of dispersion, penetrability and reactivity of organic material at the site of application.
 - (c) A written plan must be maintained at the facility and units of the facility as necessary to ensure consistent procedures are used to treat the waste.
 - (d) Refrigeration at an ambient temperature between 35 and 45 degrees Fahrenheit shall be maintained for Class A waste not treated within seven calendar days of the date of shipment from the generator.

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- (e) Class A medical waste shall be stored prior to treatment for no more than seven calendar days after receipt.
- (f) Class A medical waste shall be stored no longer than five calendar days after treatment.
- (g) Areas used to store Class A medical waste shall permit access only to authorized personnel.
- (h) All areas used to store Class A medical waste shall be kept clean. Neither carpets nor floor coverings with seams shall be used in storage areas. Vermin and insects shall be controlled.
- (i) Prior to treatment, all Class A medical waste shall be confined to the storage area.
- (j) All floor drains shall discharge directly to an approved sanitary sewage system. Ventilation shall be provided and shall discharge so as not to create nuisance odors.
- (k) A plan shall be prepared, maintained and updated as necessary to ensure continued proper management of Class A medical waste at the facility.
- (l) Records of Class A medical waste shall be maintained for each shipment and shall include the information listed in this Paragraph. This information shall be maintained at the treatment facility for no less than three years. This requirement shall not apply to Class A medical waste that is treated at the generating facility.
 - (i) name of generator;
 - (ii) date received;
 - (iii) amount of waste received by number of packages (piece count) from each generator;
 - (iv) date treated.

Statutory Authority G.S. 130A-309.26.

.1008 REQUIREMENTS FOR CLASS B MEDICAL WASTE

- (a) Class B medical waste shall be packaged and stored in the following manner:
 - (1) Class B medical waste shall be packaged in a minimum of two 3-mil. polyethylene equivalent bags and placed in a 175-pound, burst-strength, single-walled corrugated fiberboard box which is rigid and leak resistant;
 - (2) Class B medical waste shall be stored in a manner that prevents leakage of the contents, maintains the integrity of the package, and permits access only to authorized personnel.

(b) Class B medical waste is subject to all applicable rules in 10 NCAC 10G.

Statutory Authority G.S. 130A-309.26.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Mental Health, Mental Retardation and Substance Abuse Services intends to adopt rule(s) cited as 10 NCAC 18L .1501 - .1525; and amend rule(s) cited as 10 NCAC 45H .0202.

The proposed effective date of this action is February 1, 1990.

The public hearing will be conducted at 11:30 a.m. on November 8, 1989 at Holiday Inn State Capitol, 320 Hillsborough Street, Raleigh, N.C. 27603.

Comment Procedures: Any interested person may present his/her comments by oral presentation or by submitting a written statement. Persons wishing to make oral presentations should contact Julie Burton, Division of Mental Health, Mental Retardation and Substance Abuse Services, 325 N. Salisbury Street, Raleigh, N.C. 27611, (919) 733-4774 by November 8, 1989. The hearing record will remain open for written comments from October 2, 1989 through November 8, 1989. Written comments must be sent to the above address and must state the rule(s) to which the comments are addressed. Fiscal information on these rules is also available from the same address.

CHAPTER 18 - MENTAL HEALTH: OTHER PROGRAMS

SUBCHAPTER 18L - PROGRAM COMPONENT OPERATIONAL STANDARDS

SECTION .1500 - EARLY INTERVENTION SERVICES PROCEDURE SAFEGUARDS

.1501 PURPOSE

This Section sets forth the procedural safeguards required by Public Law 99-457, The Education of the Handicapped Amendments of 1986 (Part H of the Education of the Handicapped Act). This Act requires states which utilize funds appropriated under this Act to establish comprehensive, multidisciplinary systems of early intervention services for infants and toddlers with or at risk for developmental disabilities, delays, or atypical development, and their families. This

Section is designed to protect the rights of children and their families involved in the early intervention system.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1502 SCOPE

This Section applies to those early intervention services that are available through the area programs and contract agencies.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1503 DEFINITIONS

(a) As used in this Section, the following terms shall have the meanings specified in Section 303.401 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations:

- (1) "Consent";
- (2) "Native language";
- (3) "Personally identifiable".

This adoption by reference is in accordance with G.S. 150B-14(c).

(b) As used in this Section, the term "Early Intervention Services" shall have the meaning specified in Section 303.12 of Subpart A of Part 303 of Title 34 of the Code of Federal Regulations. This adoption by reference is in accordance with G.S. 150B-14(c).

(c) As used in this Section, an eligible child is an infant or toddler with or at risk for developmental disabilities, delays, or atypical development as defined in 10 NCAC 14K .0103. This adoption by reference is in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1504 OPPORTUNITY TO EXAMINE RECORDS

Area programs and contract agencies shall comply with Section 303.402 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations relating to the right of the parents of an eligible child to examine records. This adoption by reference is in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1505 PRIOR NOTICE; NATIVE LANGUAGE

Area programs and contract agencies shall comply with Section 303.403 of Subpart E of Part 303 of Title 34 of the Code of Federal Reg-

ulations relating to the requirement of prior notice to parents of an eligible child in the parents' native language. This adoption by reference is in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1506 PARENT CONSENT

Area programs and contract agencies shall comply with Section 303.404 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations relating to the requirement of parental consent. The period of reasonable time referenced in 303.403(a) shall be construed to be no less than two weeks. This adoption by reference is in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1507 SURROGATE PARENTS

Area programs and contract agencies shall comply with Section 303.405 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations relating to surrogate parents. This adoption by reference is in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1508 EARLY INTERVENTION SERVICES

Area programs and contract agencies shall comply with Section 303.12 (b) through (c) of Subpart A of Part 303 of Title 34 of the Code of Federal Regulations relating to early intervention services. This adoption by reference is in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1509 ADMINISTRATIVE RESOLUTION OF COMPLAINTS RIGHT; MEDIATION

Parents of an eligible child shall have the right to a timely administrative resolution of any complaints concerning an area program's or contract agency's proposal or refusal to initiate or change the identification, evaluation or placement of the child, or concerning the provision of appropriate early intervention services to the child and the child's family. The parents of an eligible child shall also have the right to mediation of such complaints. The administrative resolution and/or mediation of complaints shall be as set forth in this Section.

PROPOSED RULES

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1510 ADVISING PARENTS OF AVAILABILITY OF COMPLAINT RESOLUTION

Whenever an area program or contract agency becomes aware that the parents of an eligible child disagree with any decision regarding early intervention services for their child, the area program or contract agency, whichever is appropriate, shall immediately advise the parents regarding the availability of and procedure for requesting complaint resolution under this Section.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1511 WRITTEN REQUEST FOR COMPLAINT RESOLUTION

A request by parents of an eligible child for administrative resolution and/or mediation of a complaint shall be in writing and sent to the Director of the area program in which the eligible child is receiving services.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1512 CONTENT OF REQUEST FOR COMPLAINT RESOLUTION

A request by parents of an eligible child for administrative resolution and/or mediation of a complaint shall contain the following:

- (1) name and address of the child;
- (2) name and address of the parent(s);
- (3) name and address of the area program or contract agency against whom the complaint is made;
- (4) a statement of facts describing in sufficient detail the nature of the complaint;
- (5) the signature of the complaining parent(s) and the date of signing; and
- (6) whether the parent desires mediation prior to the administrative resolution of his complaint.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1513 SCHEDULING ADMINISTRATIVE PROCEEDINGS

Upon receipt of written request for administrative complaint resolution pursuant to Rule .1512 of this Section, the Director of the area program in which the eligible child is receiving services shall schedule an administrative proceeding in accordance with the requirements of this Section.

The parents shall be notified in writing of the date, time and location of the proceeding no later than seven calendar days prior to the hearing by the area director. The hearings must be scheduled at a time and place that is reasonably convenient to the parents.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1514 APPOINTMENT AND QUALIFICATIONS OF IMPARTIAL PERSON

An impartial person shall be appointed by the area director to serve as a hearing officer for implementation of the administrative complaint resolution process. Compliance with Section 303.421 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations relating to the qualifications of an impartial person is required. This adoption by reference is in accordance with G.S. 150B-14(c). The impartial person must be selected from a list of hearing officers approved by the Deputy Director of the Developmental Disabilities Section of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services. The Division of Mental Health, Developmental Disabilities and Substance Abuse Services shall provide a training program for the impartial hearing officers.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1515 AUTHORITY AND RESPONSIBILITIES OF IMPARTIAL PERSON

(a) The hearing officer shall have the powers listed in G.S. 150B-33, and in addition shall have the following authority:

- (1) to establish reasonable time limitations on the parties' presentations;
- (2) to disallow irrelevant, immaterial or repetitive evidence;
- (3) to direct that additional evaluations of the child be performed;
- (4) to make findings of fact and conclusions of law relevant to the issues involved in the hearing;
- (5) to issue subpoenas for the attendance of witnesses or the production of documents; and
- (6) to specify the type and scope of the early intervention services to be offered the child, where the proposed services are found to be inappropriate.

This adoption by reference of G.S. 150B-33 shall be in accordance with G.S. 150B-14(c).

(b) The hearing officer does not have the authority to:

- (1) determine that only a specific program, specific early intervention staff person or specific service provider is appropriate for the pupil; or

- (2) determine noncompliance of state law and regulations.

(c) The decision of the hearing officer shall be in writing and shall contain findings of fact, conclusions of law and the reasons for the decision. The hearing officer shall mail a copy of the decision to each party by certified mail, return receipt requested.

(d) The hearing officer shall inform the parent that the parent may obtain a transcript of the hearing by paying the cost for a copy. If the hearing officer determines that the parent is indigent, a transcript shall be provided without cost.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1516 PARENT RIGHTS IN ADMINISTRATIVE PROCEEDINGS

Parents of an eligible child shall have the rights set forth in Section 303.422 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations. This adoption by reference is in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1517 TIMELINES

The administrative proceeding shall be completed, and a written decision mailed to each of the parties within 30 days after the receipt of a parent's complaint as described in Rule .1511 of this Section.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1518 CIVIL ACTION

Section 303.424 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations relating to the availability of a civil action for any party aggrieved by the findings and decision in an administrative proceeding is adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1519 STATUS OF CHILD DURING PROCEEDINGS

Section 303.425 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations relating to the status of a child during an adminis-

trative proceeding is adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1520 MEDIATION

Parents of an eligible child may request mediation to resolve a complaint as an intervening step prior to the administrative proceeding. If mediation is requested, the mediation shall take place prior to the administrative proceeding. Mediation shall be conducted by the Governor's Interagency Advisory Council which was established in response to P.L. 99-457. Mediation may not be used to deny or delay a parent's right to speedy complaint resolution. The mediative, administrative proceeding and written decision must be completed within the 30 day timeline set forth in Rule .1508 of this Section.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1521 CONFIDENTIALITY

Personally identifiable information concerning an eligible child or family member of an eligible child is confidential and may not be disclosed or acquired except as provided by Rule .1522, .1523, and .1525 of this Section.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1522 DISCLOSURE OF CONFIDENTIAL INFORMATION TO EMPLOYEES

An area program or contract agency may disclose confidential information to its employees who have a legitimate need for access to the information.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1523 WRITTEN CONSENT REQUIRED

Except as provided in Rule .1511 of this Section, all disclosures of confidential information, including disclosures between an area program and contract agency, may be made only with the written consent of the parents. Parents shall be informed of their right to refuse to consent to the release of confidential information.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et.seq..

.1524 CONTENT OF WRITTEN CONSENT

(a) When consent for release of information is obtained by an area program or contract agency

PROPOSED RULES

covered by the rules in this Subchapter, a consent for release form containing the information in this Subparagraph shall be utilized. The consent form shall contain the following information:

- (1) child's name;
 - (2) name of party releasing the information;
 - (3) name of individual/agency to whom information is being released;
 - (4) information to be released;
 - (5) purpose for the release;
 - (6) length of time consent is valid;
 - (7) a statement that the consent is subject to revocation at any time;
 - (8) signature of parent;
 - (9) signature of individual witnessing the consent; and
 - (10) date the consent is signed.
- (b) The release shall be effective only until the initial Individual Family Service Plan is developed, or, if an Individual Family Service Plan has been developed, until the next Individual Service Plan review.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et. seq..

.1525 RELEASE TO PUBLIC SCHOOLS

With the consent of the parents, confidential information may be provided to the public schools if and when the child is enrolled in a program under Part B of the Education of the Handicapped Act. If the parents refuse to consent, confidential information shall not be released to the public schools.

Statutory Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et. seq..

CHAPTER 45 - NORTH CAROLINA DRUG COMMISSION

SUBCHAPTER 45H - DRUG TREATMENT FACILITIES

SECTION .0200 - SCHEDULES OF CONTROLLED SUBSTANCES

.0202 SCHEDULE I

(d) Hallucinogenic Substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers and salts of isomers, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation (for purposes of this Paragraph only, the term "isomer" includes the optical, position and geometric isomers):

- (28) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine
Some other names: TCPy - 7473

Statutory Authority G.S. 90-88; 90-89; 143B-147.

TITLE II - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Insurance intends to amend rule cited as 11 NCAC 10 .0602.

The proposed effective date of this action is February 1, 1990.

The public hearing will be conducted at 10:00 a.m. on November 2, 1989 at 4th Floor Conference Room (4085), Dobbs Building, 430 N. Salisbury Street, Raleigh, N.C. 27611.

Comment Procedures: Written comments may be sent to Ronnie Chamberlain, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Ronnie Chamberlain at (919) 733-3368, or Linda Stott at (919) 733-4700.

CHAPTER 10 - FIRE AND CASUALTY DIVISION

SECTION .0600 - CONSENT TO RATE

.0602 CONSENT TO RATE PROCEDURES: ESSENTIAL COVERAGES

(a) An application to effect consent to rate on a specific risk of "essential" coverage, as identified in Regulation .0402 of this Chapter, in excess of the rate promulgated by the North Carolina Rate Bureau, shall include, but not be limited to, the following:

- (1) a description of the insurance proposed, including primary and excess limits, the amount of coverage, the property insured, the deductible and any other factor used for rating, where applicable;
- (2) the rate and premium which would be charged without application of consent to rate;
- (3) the proposed rate and premium;
- (4) the percent increase. The rate to be charged will be presumed reasonable if it does not exceed 250 percent of the rate which would be charged without application of consent to rate. Any proposed rate in excess of 250 percent must be explained fully and may be disapproved by the commissioner. (This is not required

for and does not apply to "essential" automobile physical damage insurance);

- (5) a statement that the rate charged does not exceed the rate which would be applicable if the applicant had been charged 550 percent of the rate with no driving record points. Any proposed rate in excess of 550 percent must be explained fully, submitted individually, and may be disapproved by the commissioner. (This is required for "essential" automobile physical damage insurance only);
- (6) the names and addresses of the insurer, the writing agent, and the insured;
- (7) the effective date of the proposed rate;
- (8) the policy period;
- (9) the policy number;
- (10) the reason for the surcharge may be required; and
- (11) a letter signed by the insured acknowledging and consenting to the proposed rate (not required to be submitted to the commissioner for "essential" automobile physical damage insurance). If coverage for the specific risk written on consent to rate is available through a residual market (FAIR Plan, Beach Plan, North Carolina Reinsurance Facility, North Carolina Workers Compensation Insurance Plan), a statement signed by the insured acknowledging that fact must also be submitted.

All such applications must be forwarded directly to the commissioner for approval.

(b) Such applications involving non-standard automobile physical damage insurance may be recorded on a form approved by the commissioner and must be forwarded at frequent intervals to the commissioner for approval. A letter signed by each insured acknowledging and consenting to the proposed rate shall be retained in the insurer's office and be made available to the commissioner upon request. A separate letter with the insured's signature must be obtained for each policy period.

(c) All applications for approval of consent to rate received more than 90 days after the effective date of the proposed rates will be disapproved and construed as effective at the rates which would be charged without application of consent to rate on the effective date.

Statutory Authority G.S. 58-124.23(b).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Insurance intends to adopt rules cited as 11 NCAC 12 .0801 - .0814.

The proposed effective date of this action is February 1, 1990.

The public hearing will be conducted at 10:00 a.m. on November 1, 1989 at Industrial Commission Hearing Room (2063), Dobbs Building, 430 N. Salisbury Street, Raleigh, N.C. 27611.

Comment Procedures: Written comments may be sent to Leonard Wood, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Leonard Wood at (919) 733-5060, or Linda Stott at (919) 733-4700.

CHAPTER 12 - LIFE: ACCIDENT AND HEALTH DIVISION

SECTION .0800 - MEDICARE SUPPLEMENT INSURANCE

.0801 PURPOSE

The purpose of this Rule is to provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare Supplement Policies; to facilitate public understanding and comparison of such policies; to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or with the settlement of claims; and to provide for full disclosures in the sale of accident and sickness insurance coverages to persons eligible for Medicare by reason of age.

Statutory Authority G.S. 58-9; 58-712; 58-713; 58-715.

.0802 APPLICABILITY AND SCOPE

(a) Except as otherwise specifically provided, this rule shall apply to:

- (1) all Medicare Supplement Policies and subscriber contracts delivered or issued for delivery in this state on or after the effective date hereof; and
- (2) all certificates issued under group Medicare Supplement Policies or subscriber contracts, which certificates have been delivered or issued for delivery in this state.

(b) This rule shall not apply to:

- (1) a policy or contract of one or more employers or labor organizations;

- (2) the trustees of a fund established by one or more employers or labor organizations, or combination thereof;
- (3) for employees or former employees, or a combination thereof; or
- (4) for members, or a combination thereof, of the labor organizations.

Statutory Authority G.S. 58-9; 59-711.

.0803 DEFINITIONS

For the purpose of this rule:

- (1) "Applicant" means:
 - (a) in the case of an individual Medicare Supplement Policy or subscriber contract, the person who seeks to contract for insurance benefits, and
 - (b) in the case of a group Medicare Supplement Policy or subscriber contract, the proposed certificateholder.
- (2) "Certificate" means, for the purpose of this Rule, any certificate issued under a group Medicare Supplement Policy, which certificate has been delivered or issued for delivery in this state.
- (3) "Medicare Supplement Policy" means a group or individual policy of accident and health insurance or a subscriber contract of hospital and medical service corporations or health maintenance organizations which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age.

Statutory Authority G.S. 58-9; 58-710.

.0804 POLICY DEFINITIONS AND TERMS

No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this state as a Medicare Supplement Policy unless such policy or subscriber contract contains definitions or terms which conform to the requirements of this Section.

- (1) "Accident", "Accidental Injury", or "Accidental Means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.
 - (a) The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or

bodily infirmity or any other cause, and occurs while insurance coverage is in force".

- (b) Such definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.
- (2) "Benefit Period" or "Medicare Benefit Period" shall not be defined as more restrictive than as that defined in the Medicare program.
- (3) "Convalescent Nursing Home", "Extended Care Facility", or "Skilled Nursing Facility" shall be defined in relation to its status, facilities and available services.
 - (a) A definition of such home or facility shall not be more restrictive than one requiring that it:
 - (i) be operated pursuant to law;
 - (ii) be approved for payment of Medicare benefits or be qualified to receive such approval, if so requested;
 - (iii) be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;
 - (iv) provide continuous 24 hours a day nursing service by or under the supervision of a registered graduate profession nurse (R.N.); and
 - (v) maintains a daily medical record of each patient.
 - (b) The definition of such home or facility may provide that such term not be inclusive of:
 - (i) any home, facility or part thereof used primarily for rest;
 - (ii) a home or facility for the aged or for the care of drug addicts or alcoholics; or
 - (iii) a home or facility primarily used for the care and treatment of mental diseases or disorders, or custodial or educational care.
- (4) "Health Care Expenses" means expenses of health maintenance organizations associated with the delivery of health care services which are analogous to incurred losses of insurers. Such expenses shall not include:
 - (a) home office and overhead costs;
 - (b) advertising costs;
 - (c) commissioners and other acquisition costs;
 - (d) taxes;
 - (e) capital costs;
 - (f) administrative costs; or
 - (g) claims processing costs.
- (5) "Hospital" may be defined in relation to its status, facilities and available services or

- to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.
- (a) The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:
 - (i) be an institution operated pursuant to law; and
 - (ii) be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which charge is made; and
 - (iii) provide 24 hour nursing service by or under the supervision of registered graduate professional nurses (R.N.s).
 - (b) The definition of the term "hospital" may state that such term shall not be inclusive of:
 - (i) convalescent homes, convalescent, rest or nursing facilities; or
 - (ii) facilities primarily affording custodial, educational or rehabilitation care; or
 - (iii) facilities for the aged, drug addicts or alcoholics; or
 - (iv) any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.
 - (6) "Medicare" shall be defined in the policy. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended", or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof", or words of similar import.
 - (7) "Medicare Eligible Expenses" shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including

determinations of medical necessity as are applicable to Medicare claims.

- (8) "Mental or Nervous Disorders" shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.
- (9) "Nurses" may be defined so that the description of nurse is restricted to a type of nurse, such as Registered Graduate Professional Nurse (R.N.), a Licensed Practical Nurse (L.P.N.), or a Licensed Vocational Nurse (L.V.N.). If the words "nurse", "trained nurse", or "registered nurse" are used without specific instruction, then the use of such terms requires the insurer to recognize the services of any individual who qualified under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state.
- (10) "Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician". The use of such terms requires an insurer to recognize and to accept, to the extent of its obligation under the contract, all providers of medical care and treatment when such services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.
- (11) "Sickness" shall not be defined to be more restrictive than the following: "Sickness means sickness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force". The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

Statutory Authority G.S. 58-9; 58-711; 58-712; 58-713.

.0805 PROHIBITED POLICY PROVISIONS

- (a) No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this state as a Medicare Supplement Policy if such policy or subscriber contract limits or excludes coverage by type of illness, accident, treatment or medical condition, except as follows:
 - (1) foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

- (2) mental or emotional disorders, alcoholism and drug addiction;
- (3) illness, treatment or medical condition arising out of:
 - (A) war or act of war (whether declared or undeclared); participation in a felony, riot or insurrection; service in the armed forces or units auxiliary thereto;
 - (B) suicide (sane or insane), attempted suicide or intentionally self-inflicted injury;
 - (C) aviation.
- (4) cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part;
- (5) care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effect thereof, where such interference is the result of or related to distortion, misalignment or subluxation of or in the vertebral column;
- (6) treatment provided in a governmental hospital; benefits provided under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;
- (7) dental care or treatment;
- (8) eye glasses, hearing aids and examination for the prescription or fitting thereof;
- (9) rest cures, custodial care, transportation and routine physical examinations;
- (10) territorial limitations outside the United States;

provided, however, supplemental policies may not contain, when issued, limitations or exclusions of the type enumerated in Paragraphs (a) (1), (5), (9), or (10) of this Rule that are more restrictive than those of Medicare. Medicare Supplement Policies may exclude coverage for any expense to the extent of any benefit available to the insured under Medicare.

(b) No Medicare Supplement Policy may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described pre-existing diseases or physical conditions.

(c) The terms "Medicare Supplement", "Medigap" and words of similar import shall not be used unless the policy is issued in compliance with this regulation.

(d) No Medicare Supplement Insurance Policy, contract or certificate in force in the state shall contain benefits which duplicate benefits provided by Medicare.

Statutory Authority G.S. 58-9; 58-712.

.0806 MINIMUM BENEFIT STANDARDS

No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this state as a Medicare Supplement Policy which does not meet the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

- (1) General Standards. The following standards apply to Medicare Supplement Policies and are in addition to all other requirements of this regulation:
 - (a) A Medicare Supplement Policy may not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.
 - (b) A Medicare Supplement Policy may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.
 - (c) A Medicare Supplement Policy shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.
 - (d) A "noncancellable", "guaranteed renewable", or "noncancellable and guaranteed renewable" Medicare Supplement Policy shall not:
 - (i) provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or
 - (ii) be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health; and

- (c) Termination of a Medicare Supplement Policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.
- (2) Minimum Benefit Standards.
 - (a) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount.
 - (b) Coverage for the daily copayment amount of Medicare Part A eligible expenses for the first eight days per calendar year incurred for skilled nursing facility care.
 - (c) Coverage for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) under Medicare Part A unless replaced in accordance with federal regulations.
 - (d) Until January 1, 1990, coverage for 20 percent of the amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket deductible of two hundred dollars (\$200.00) of such expenses and to a maximum benefit of at least five thousand dollars (\$5,000.00) per calendar year.
Effective January 1, 1990, coverage for the copayment amount (20 percent) of Medicare eligible expenses excluding outpatient prescription drugs under Medicare Part B regardless of hospital confinement up to the maximum out-of-pocket amount for Medicare Part B after the Medicare deductible amount.
 - (e) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations.
 - (f) Effective January 1, 1990, coverage for the copayment amount (20 percent) of Medicare eligible expenses for covered home intravenous (IV) therapy drugs (as determined by the Secretary of Health and Human Services) subject to the Medicare outpatient prescription drug deductible amount, if applicable.
 - (g) Effective January 1, 1990, coverage for the copayment amount (20 percent) of Medi-

care eligible expenses for outpatient drugs used in immunosuppressive therapy, subject to the Medicare outpatient prescription drug deductible, if applicable.

- (3) Medicare Eligible Expenses. Medicare eligible expenses shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.

Statutory Authority G.S. 58-9; 58-712; 58-713.

.0807 STANDARDS FOR CLAIMS PAYMENT

(a) Every entity providing Medicare Supplement Policies or contracts shall comply with all provisions of Section 4081 of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203).

(b) Compliance with the requirements set forth in Paragraph (a) of this Rule must be certified on the Medicare Supplement insurance experience reporting form.

Statutory Authority G.S. 58-9; 58-713.

.0808 LOSS RATIO STANDARDS

Medicare Supplement Policies shall return to policyholders in the form of aggregate benefits under the policy, for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for such period and in accordance with accepted actuarial principles and practices:

- (1) At least 75 percent of the aggregate amount of premiums earned in the case of group policies; and
- (2) At least 65 percent of the aggregate amount of premiums earned in the case of individual policies. All filings of rates and rating schedules shall demonstrate that actual and expected losses in relation to premiums comply with the requirements of this Section.
- (3) Every entity providing Medicare Supplement Policies in this state shall file annually its rates, rating schedule and supporting documentation including ratios of incurred losses to earned premiums by number of years of policy duration demonstrating that it is in compliance with the foregoing appli-

cable loss ratio standards and that the period for which the policy is rated is reasonable in accordance with accepted actuarial principles and experience. For the purposes of this Section, policy forms shall be deemed to comply with the loss ratio standards if:

- (a) for the most recent year, the ratio of the incurred losses to earned premiums for policies or certificates which have been in force for three years or more is greater than or equal to the applicable percentages contained in this Section; and
 - (b) the expected losses in relation to premiums over the entire period for which the policy is rated comply with the requirements of this Section. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three years.
- (4) As soon as practicable, but no later than 60 days prior to the effective date of Medicare benefit changes required by the Medicare Catastrophic Coverage Act of 1988, every insurer, health care service plan or other entity providing Medicare Supplement insurance of contracts in this state (except employers subject to the requirements of Section 421 of the Medicare Catastrophic Act of 1988), shall file with the Commissioner, in accordance with the applicable filing procedures of this state;
- (a) Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies or contracts. Such supporting documents as necessary to justify the adjustment shall accompany the filing. Every insurer, health care service plan or other entity providing Medicare Supplement insurance or benefits to a resident of this state pursuant to N.C.G.S. 58-711 shall make such premium adjustments as are necessary to produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for Medicare Supplement Policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the insurer, health care service plan or other entity for such Medicare Supplement Insurance Policies or contracts. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein should be made with respect to a policy at any time other

than upon its renewal date or anniversary date. Premium adjustments shall be in the form of refunds or premium credits and shall be made no later than upon renewal if a credit is given, or within 60 days of the renewal date or anniversary date if a refund is provided to the premium payer. Premium adjustments shall be calculated for the period commencing with Medicare benefit changes.

- (b) Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare Supplement insurance modifications necessary to eliminate benefit duplications with Medicare. Any such endorsements or policy forms shall provide a clear description of the Medicare Supplement benefits provided by the policy or contract.

Statutory Authority G.S. 58-9; 58-714.

.0809 FILING REQUIREMENTS FOR OUT-OF-STATE GROUP POLICIES

Every insurer providing group Medicare Supplement insurance benefits to a resident of this state pursuant to N.C.G.S. 58-711 shall file a copy of the master policy and any certificate used in this state in accordance with the filing requirements and procedures applicable to group Medicare Supplement Policies issued in this state; provided, however, that no insurer shall be required to make a filing earlier than 31 days after insurance was provided to a resident of this state under a master policy issued for delivery outside this state.

Statutory Authority G.S. 58-9; 58-714.

.0810 PROHIBITED COMPENSATION FOR REPLACEMENT WITH THE SAME CO

No entity shall provide compensation to its agents or other producers which is greater than the renewal compensation which would have been paid on an existing policy is replaced by another policy with the same company where the new policy benefits are substantially similar to the benefits under the old policy and the old policy was issued by the same insurer or insurer group.

Statutory Authority G.S. 58-9; 58-714.

.0811 REQUIRED DISCLOSURE PROVISIONS

- (a) General Rules.
 - (1) Medicare Supplement Policies shall include a renewal, continuation or nonrenewal provision. The language or

specifications of such provisions must be consistent with the type of contract to be issued. Such provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, or renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.

- (2) Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare Supplement Policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits; all riders or endorsements added to a Medicare Supplement Policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare Supplement Insurance Policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy.
- (3) A Medicare Supplement Policy which provides for the payment of benefits based on standards described as "usual and customary", "reasonable and customary" or words of similar import shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.
- (4) If a Medicare Supplement Policy contains any limitations with respect to preexisting conditions, such limitations must appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations".
- (5) Medicare Supplement Policies or certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificateholder shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy

or certificate, the insured person is not satisfied for any reason.

- (6) Insurers issuing accident and health policies, certificates or subscriber contracts which provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to persons eligible for Medicare by reason of age shall provide to all applicants a Medicare Supplement Buyer's Guide in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration. Delivery of the Buyer's Guide shall be made whether or not such policies, certificates or subscriber contracts are advertised, solicited or issued as Medicare Supplement Policies as defined in this Rule. Except in the case of direct response insurers, delivery of the Buyer's Guide shall be made to the applicant at the time of application and acknowledgment of receipt of the Buyer's Guide shall be obtained by the insurer. Direct response insurers shall deliver the Buyer's Guide to the applicant upon request but not later than at the time the policy is delivered.
- (b) Notice Requirements.
 - (1) As soon as practicable, but no later than 30 days prior to the annual effective date of any Medicare benefit changes, every insurer, health care service plan or other entity providing Medicare Supplement Insurance or benefits to a resident of this state shall notify its policyholders, contract holders and certificate holders of modifications it has made to Medicare Supplement Insurance Policies or contracts in a format acceptable to the Commissioner. For the years 1989 and 1990 and if prescription drugs are covered in 1991, such notice shall be in a format prescribed by the Commissioner or in the format prescribed in Forms C, D and E if no other format is prescribed by the Commissioner. In addition, such notice shall:
 - (A) Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare Supplement Insurance Policy or contract; and
 - (B) Inform each covered person as to when any premium adjustment is to be made due to changes in Medicare.
 - (2) The notice of benefit modifications and any premium adjustments shall be in

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outline form and in clear and simple terms so as to facilitate comprehension.

- (3) Such notices shall not contain or be accompanied by any solicitation.
- (c) Outline of coverage requirements for Medicare Supplement Policies.
- (1) Insurers issuing Medicare Supplement Policies or certificates for delivery in this state shall provide an outline of coverage to all applicants at the time application is made and, except for direct response policies, shall obtain an acknowledgement of receipt of such outline from the applicant; and
- (2) If an outline of coverage is provided at the time of application and the Medicare Supplement Policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate when it is delivered and contain the following statement, in no less than 12 point type, immediately above the company name:
"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."
- (3) The outline of coverage provided to applicants pursuant to Paragraph (2) shall be in the form prescribed below:

[COMPANY NAME]
OUTLINE OF MEDICARE
SUPPLEMENT COVERAGE

- (A) Read your policy carefully - This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!
- (B) Medicare Supplement Coverage - Policies of this category are designed to supplement Medicare by covering some hospital, medical and surgical services which are partially covered by Medicare. Coverage is provided for hospital inpatient charges and some physician charges, subject to any deductibles and copayment provisions which may be in addition to those provided by Medicare, and subject

to other limitations which may be set forth in the policy. The policy does not provide benefits for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing and taking medicine [delete if such coverage is provided].

- (C) A. [for agents:]
Neither [insert company's name] nor its agents are connected with Medicare.
B. [for direct responses:]
[insert company's name] is not connected with Medicare.
- (D) [A brief summary of the major medical benefit gaps in Medicare Parts A & B with a parallel description of supplemental benefits, including dollar amounts (and indexed copayments or deductibles, as appropriate), provided by the Medicare Supplement coverage in the following order:]

DESCRIPTION

SERVICE

PART A

INPATIENT HOSPITAL SERVICES:

Semi-Private Room & Board

Miscellaneous Hospital Services

& Supplies, such as Drugs,

X-Rays, Lab Tests & Operating Room

SKILLED NURSING FACILITY CARE

Blood

PARTS A & B

Home Health Services

PART B

MEDICAL EXPENSE:

Services of a Physician/

Outpatient Services

Medical Supplies and other than

Prescribed Drugs

BLOOD

MAMMOGRAPHY SCREENING

OUT-OF-POCKET MAXIMUM

PRESCRIPTION DRUGS

MISCELLANEOUS

Home IV-Drug Therapy

Immunosuppressive Drugs

Respite Care Benefits

THIS POLICY PAYS

YOU PAY

IN ADDITION TO THIS OUTLINE OF COVERAGE, [INSURANCE COMPANY NAME] WILL SEND AN ANNUAL NOTICE TO YOU 30 DAYS PRIOR TO THE EFFECTIVE DATE OF MEDICARE CHANGES WHICH WILL DESCRIBE THESE CHANGES AND THE CHANGES IN YOUR MEDICARE SUPPLEMENT COVERAGE.

- (E) Form A and Form B shall accompany the outline of coverage as described in Paragraph (c)(4) of this Rule.

- (F) Statement that the policy does or does not cover the following:
- (i) Private duty nursing;
 - (ii) Skilled nursing home care costs (beyond what is covered by Medicare);
 - (iii) Custodial nursing home care costs;
 - (iv) Intermediate nursing home care costs;
 - (v) Home health care above number of visits covered by Medicare;
 - (vi) Physician charges (above Medicare's reasonable charges);
 - (vii) Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay);
 - (viii) Care received outside the U.S.A.;
 - (ix) Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for the cost of eyeglasses or hearing aids.
- (G) A description of any policy provisions which exclude, eliminate, resist, reduce, limit, delay, or in any other manner operate to qualify payments of the benefits described in Paragraph (a)(4) of this Rule, including conspicuous statements:
- (i) That the chart summarizing Medicare benefits only briefly describes such benefits.
 - (ii) That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.
- (H) A description of policy provisions respecting renewability or continuation of coverage, including any reservation of rights to change premium.
- (I) The amount of premium for this policy.
- (d) Notice regarding policies or subscriber contracts which are not Medicare supplement policies. Any accident and health insurance policy or subscriber contract, other than a Medicare Supplement Policy; disability income policy; basic, catastrophic, or major medical expense policy; single premium nonrenewable policy or other policy identified 11 NCAC 12 .0803(b), issued for delivery in this state to persons eligible for Medicare by reason of age shall notify insureds under the policy or subscriber contract that the policy or subscriber contract is not a Medicare Supplement Policy. Such notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy or subscriber contract, or if no outline of coverage is delivered, to the first page of the policy, certificate or subscriber contract delivered to insureds. Such notice shall be in no

less than 12 point type and shall contain the following language:

"THIS [POLICY, CERTIFICATE OR SUBSCRIBER CONTRACT] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the company."

Statutory Authority G.S. 58-9; 58-715.

.0812 REQUIREMENTS FOR REPLACEMENT

(a) Application forms shall include a question designed to elicit information as to whether a Medicare Supplement Policy or certificate is intended to replace any other accident and health policy or certificate presently in force. A supplementary application or other form to be signed by the applicant containing such a question may be used.

(b) Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare Supplement Policy or certificate, a notice regarding replacement of accident and health coverage. One copy of such notice shall be provided to the applicant and an additional copy signed by the applicant shall be retained by the insurer. A direct response insurer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of accident and sickness coverage. In no event, however, will such a notice be required in the solicitation of "accident only" and "single premium nonrenewable" policies.

(c) The notice required by Paragraph (b) of this Rule for an insurer, other than a direct response insurer, shall be provided in substantially the following form:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS INSURANCE

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and health insurance and replace it with a policy to be issued by [company name] Insurance Company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you and under the new policy.

- (1) Health conditions which you may presently have (preexisting conditions) may

PROPOSED RULES

not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

- (2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
- (3) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

The above "Notice to Applicant" was delivered to me on:

(DATE)

(Applicant's Signature)

- (d) The notice required by Paragraph (b) of this Rule for a direct response shall be as follows:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS INSURANCE

According to [your application] [information you have furnished] you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with the policy delivered herewith issued by [company name] Insurance Company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect

the insurance protection available to you under the new policy.

- (1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.
- (2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
- (3) [to be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [Company Name and Address] within ten days if any information is not correct and complete, or if any past medical history has been left out of the application.

(Company Name)

Statutory Authority G.S. 58-9; 58-715.

.0813 FILING REQUIREMENTS FOR ADVERTISING

Every insurer, hospital or medical service corporation or health maintenance organization or other entity providing Medicare Supplement insurance or benefits in this state shall provide a copy of any Medicare Supplement advertisement intended for use in this state whether through written, radio or television medium to the Commissioner of Insurance of this State for review or approval by the Commissioner to the extent it may be required under state law.

Statutory Authority G.S. 58-9; 58-717.

.0814 FORMS

The forms referenced in Medicare Supplement Policies Regulations are as follows:

- (1) Form A lists services covered under Medicare Part A and describes benefits covered for 1988, 1989, 1990 and 1991.
- (2) Form B lists services covered under Medicare Part B and describes benefits covered for 1988, 1989, 1990 and 1991.
- (3) Form C is a notice that describes any changes in Medicare coverages for 1989 and any resulting changes in Medicare Supplement coverage. This notice must include the name of the company issuing the policy as well as the agent who sells the Medicare Supplement policy.
- (4) Form D is a notice that describes any changes in Medicare coverage for 1990 and any resulting changes in Medicare Supplement Coverage. This notice must include the name of the company issuing the policy as well as the name of the agent who sells the Medicare Supplement Policy.
- (5) Form E is a notice that describes any changes in Medicare coverage for 1991 and any resulting changes in Medicare Supplement Coverage. This notice must include the name of the company issuing the policy as well as the name of the agent who sells the Medicare Supplement Policy.
- (6) All forms described in this Rule may be obtained in the Life, Accident and Health Division, North Carolina Department of Insurance, 430 N. Salisbury Street, Raleigh, North Carolina 27611, or by calling (919) 733-5060.

Statutory Authority G.S. 58-9; 58-712; 58-713; 58-715; 58-717.

TITLE 15 - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to amend rule(s) cited as 15 NCAC 2B .0303.

The proposed effective date of this action is March 1, 1990.

The public hearing will be conducted at 7:00 P.M. on November 2, 1989 at Superior Courtroom, Swain County Courthouse, Mitchell Street, Bryson City, NC.

Comment Procedures: All persons interested in this matter are invited to attend. Comments,

statements, data, and other information may be submitted in writing prior to, during, or within thirty (30) days after the hearing or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged. For more information, please contact Suzanne H. Keen, Division of Environmental Management, P. O. Box 27687, Raleigh, NC 27611 - (919) 733-5083.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0303 LITTLE TENN RIVER BASIN AND SAVANNAH RIVER DRAINAGE AREA

(c) The Little Tennessee River Basin and Savannah River Drainage Area Schedule of Classifications and Water Quality Standards was amended effective:

- (1) February 16, 1977;
- (2) March 1, 1977;
- (3) July 13, 1980;
- (4) February 1, 1986;
- (5) October 1, 1987;
- (6) March 1, 1989;
- (7) March 1, 1990.

(e) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective March 1, 1990 by the reclassification of Alarka Creek (Index No. 2-69) from source to Bearmeat Branch including all tributaries from Class C Tr to Class C Tr ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule cited as 15 NCAC 10B .0209.

The proposed effective date of this action is February 1, 1990.

The public hearing will be conducted at 7:00 p.m. on November 8, 1989 at Surry County Courthouse, Dobson, North Carolina.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from October 24, 1989 to November 28, 1989. Such written comments must be delivered or mailed to the N.C. Wildlife Commission, 512 N. Salisbury Street, Raleigh, NC 27611.

**CHAPTER 10 - WILDLIFE RESOURCES AND
WATER SAFETY**

**SUBCHAPTER 10B - HUNTING AND
TRAPPING**

SECTION .0200 - HUNTING

**.0209 WILD TURKEY (BEARDED
TURKEYS ONLY)**

(a) Open Season: Second Saturday in April to Saturday of the fourth week thereafter on bearded turkeys in the following counties: Alleghany, Ashe, Bertie, Buncombe, Burke, Caswell, Cherokee, Clay, Durham, Graham, Granville, Hyde, Jackson, Macon, McDowell, Mitchell, Onslow, Orange, Person, Rockingham, Scotland, Surry, and in the following portions of counties:

Alamance: All of the county except that part south of I-85 and west of NC 87.

Anson: That part east of US 52 and north of US 74.

Bladen: All of the county except that part bounded on the west by US 701, on the east by 210, and on the south by NC 53, SR 1730, and the Columbus County line.

Brunswick: That part north of US 74-76.

Caldwell: That part west of US 321.

Carteret: That part west of US 70 and north of NC 24.

Chatham: That part north and west of US 1.

Chowan: That part south of US 17.

Columbus: That part south of US 74 and west of NC 410 and that part north of NC 87.

Craven: That part west of US 70, and south of SR 1100.

Guilford: That part north of a boundary formed by I-85 and I-40.

Halifax: That part north of NC 903 and east of I-95.

Haywood: That part north of I-40.

Henderson: That part west of I-26.

Hoke: That part south and west of NC 211.

Johnston: That part south of US 70 and I-95 and east of US 701.

Jones: That part south of SR 1105 and NC 58 to Maysville and east of US 17.

Madison: All of the county except that part north of NC 208, NC 212 and SR 1434.

Martin: That part north of a boundary formed by US 64 from the Washington County line to Williamston, north of NC 125 from Williamston to the junction with NC 142, and north of NC 142 to the Edgemcombe County line.

Montgomery: That part south of NC 24-27.

Northampton: That part south of a boundary formed by US 158 from the Halifax County line to Jackson, NC 305 from Jackson to Rich Square, US 258 from Rich Square to NC 308, and NC 308 to the Bertie County line.

Pender: That part west of US 421 from the Sampson County line to NC 210 and south of NC 210 and NC 133 to the New Hanover County line.

Perquimans: That part south of US 17.

Richmond: That part north of US 74.

Robeson: That part east of I-95 and south of US 74.

Swain: All of the county except that part south of US 19 and west of NC 28.

Transylvania: All of the county except that part west of US 178, and south of US 64.

Watauga: That part north of US 421.

Wilkes: That part north of US 421.

Yancey: All of the county except that part bounded on the west by NC 197, on the north by US 19E, and on the east by NC 80.

****The Sandhills Game Land in Richmond, Scotland, and Moore Counties and the Roanoke River Wetlands in Bertie, Halifax, and Martin Counties are closed to turkey hunting except by holders of special permits authorizing turkey hunting. Such permits are issued by authorized representatives of the Wildlife Resources Commission.**

(b) Bag Limits: Daily, one; possession, two; season, two.

(c) Dogs Prohibited. It is unlawful to use dogs for hunting turkeys.

(d) Kill Reports. The carcass of each wild turkey shall be tagged and the kill reported as provided by 15 NCAC 10B .0113.

Statutory Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2.

**TITLE 21 - OCCUPATIONAL LICENSING
BOARD**

Notice is hereby given in accordance with G.S. 150B-12 that the Board of Medical Examiners of the State of North Carolina intends to amend rules cited as 21 NCAC 32A .0004; 32B .0214,

.0309, .0508; adopt rules cited as 21 NCAC 32L .0001 - .0002; and repeal rules cited as 21 NCAC 32B .0205, .0303.

The proposed effective date of this action is March 1, 1990.

The public hearing will be conducted at 8:30 a.m. on December 1, 1989 at Ballroom 2, N. Raleigh Hilton, 3415 Old Wake Forest Road, Raleigh, N.C.

Comment Procedures: Persons interested may present written or oral statements relevant to the actions proposed at a hearing to be held as indicated above. Written statements not presented at the hearing should be directed before November 15, 1989, to the following address: Administrative Procedures, N.C. Board of Medical Examiners, P.O. Box 26808, Raleigh, N.C. 27611-6808.

CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

SUBCHAPTER 32A - ORGANIZATION

.0004 MEETINGS

The Board customarily meets ~~seven times a year in January, March, May, June, August, October, and December~~ at regularly scheduled intervals as appropriate to carry out Board business. Other meetings may be called by the President of the Board or upon written request of the majority of the members of the Board.

Statutory Authority G.S. 90-5.

SUBCHAPTER 32B - LICENSE TO PRACTICE MEDICINE

SECTION .0200 - LICENSE BY WRITTEN EXAMINATION

.0205 CITIZENSHIP (REPEALED)

Statutory Authority G.S. 90-9.

.0214 PERSONAL INTERVIEW

To be eligible for the written examination, applicants who are graduates of medical schools not approved by the LCME or AOA ~~and applicants who are U.S.A. immigrants~~ must appear before the Executive Secretary for a personal interview upon completion of all credentials. ~~Immigrants must present their Alien Registration Receipt Cards at the interview. Failure to present this card constitutes an incomplete application.~~ This interview must be conducted at least 75 days prior to the date of the examination.

Statutory Authority G.S. 90-6.

SECTION .0300 LICENSE BY ENDORSEMENT

.0303 CITIZENSHIP (REPEALED)

Statutory Authority G.S. 90-13.

.0309 PERSONAL INTERVIEW

To be eligible for license by endorsement of credentials, applicants who are graduates of medical schools not approved by the LCME or AOA ~~and applicants who are U.S.A. immigrants~~ must appear before the Executive Secretary, a Board member, or the full Board for a personal interview upon completion of all credentials. ~~Immigrants must present their Alien Registration Receipt Cards at the interview. Failure to present this card constitutes an incomplete application.~~

Statutory Authority G.S. 90-13.

SECTION .0500 - RESIDENT'S TRAINING LICENSE

.0508 MEDICAL EDUCATION

(a) Applicants for resident's training license must have the medical education required by G.S. 90-9.

(1) To be eligible for a resident's training license, an applicant must have the following medical education:

(a) ~~(1)~~ be a graduate of a medical school approved by either LCME or AOA; or

(b) ~~(2)~~ be a graduate of a medical school not approved by either LCME or AOA and meet the requirement regarding ECFMG under Rule .0507 of this Section.

(2) ~~(b)~~ If a graduate of a medical school not approved by either LCME or AOA has taken clinical clerkships in the U.S.A., the applicant must:

(a) ~~(1)~~ meet the requirement regarding ECFMG under Rule .0507 of this Section,

(b) ~~(2)~~ furnish evidence that he has satisfactorily completed clinical clerkships at teaching hospitals in the U.S.A. with ACGME or AOA approved graduate medical education and training programs in the areas of the specific clerkships; or

(c) ~~(3)~~ if clerkships do not meet the requirement in ~~(b)(2)~~ (2)(b) of this Rule, remedy the deficiencies as follows:

(i) ~~(A)~~ re-apply to medical school so that the school may arrange for the applicant to

PROPOSED RULES

complete approved clinical clerkships as required; or

(ii) ~~(B)~~ apply for admission to advanced standing at a medical school approved by the LCME or AOA to repeat one year of clinical clerkship.

(3) A graduate of a medical school not approved by either LCME or AOA whose clinical clerkships do not meet the requirements in (2)(b) of this Rule who has satisfactorily completed three years of graduate medical education and training after graduating from a medical school which is approved by the ACGME or AOA, must submit proof of the three years of graduate medical education and training.

(e) The burden of proof of medical education is on the applicant.

Statutory Authority G.S. 90-15.

SUBCHAPTER 32L - STANDARDS OF PRACTICE

.0001 DEFINITIONS

The following definitions apply to this Subchapter:

- (1) "Practitioner" means any person authorized to issue prescriptions.
- (2) "Prescription" means an order for medication for a patient.

Statutory Authority G.S. 90-14.

.0002 PRESCRIPTIONS

(a) Written prescriptions shall be written with ink or indelible pencil or typewritten and shall be manually signed by the practitioner at the time of issuance.

(b) No prescription may be issued for a patient in the absence of a physician-patient relationship. A physician-patient relationship where a prescription is issued shall include the maintenance of a patient record documenting the physical examination of the patient by the practitioner and the prescription given to the patient.

(c) No prescription for controlled substances or mind-altering chemicals may be issued by a practitioner for himself.

Statutory Authority G.S. 90-14.

FINAL RULES

The List of Rules Codified is a listing of rules that were filed to be effective in the month indicated.

Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Please contact this office if you have any questions.

Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication in the N.C. Register of proposed rules.

Upon request from the adopting agency, the text of rules will be published in this section.

*An agency has 30 days from the effective date of a rule to notify this agency of any typographical or technical errors in the rule as codified. These corrections are incorporated into the **List of Rules Codified** and are noted as * **Correction**. A typographical or technical error does not change the effective date if corrected within the 30 day requirement.*

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES CODIFIED

OCTOBER 1989

AGENCY		ACTION TAKEN
<u>DEPARTMENT OF AGRICULTURE</u>		
2	NCAC 10G .0301 - .0302	Amended
	20B .0413	Amended
	43L .0401 - .0403	Amended
	.0409	Adopted
	48A .0805	Amended
	.0901	Amended
	.1103	Amended
	.1201	Amended
	48C .0002	Amended
	.0004 - .0006	Amended
	.0008 - .0009	Amended
	.0023	Amended
<u>DEPARTMENT OF COMMERCE</u>		
4	NCAC 5C .0103	Amended
<u>DEPARTMENT OF CORRECTIONS</u>		
5	NCAC 2D .0201	Amended
	.0204	Amended
	2E .1501 - .1503	Adopted
<u>DEPARTMENT OF CULTURAL RESOURCES</u>		
7	NCAC 4U .0001 - .0002	Amended

FINAL RULES

OFFICES OF THE GOVERNOR AND LIEUTENANT GOVERNOR

9 NCAC 2B Executive Order Number 95
Eff. July 25, 1989
Executive Order Number 96
Eff. July 25, 1989

DEPARTMENT OF HUMAN RESOURCES

10	NCAC	3H	.0513	Amended
			.0514 - .0515	Adopted
			.0517	Adopted
		7B	.0337	Temp. Amended
				Expires 02-28-90
			.0347	Temp. Amended
				Expires 02-28-90
			.0349	Temp. Amended
				Expires 02-28-90
			.0351	Temp. Amended
				Expires 02-28-90
		8F	.0111	* Correction
		11	.0705	Amended

DEPARTMENT OF INSURANCE

11	NCAC	12	.0605	Amended
			.0608 - .0609	Amended
			.0801 - .0814	Temp. Adopted
				Expires 02-26-90

DEPARTMENT OF JUSTICE

12	NCAC	7D	.0401	Temp. Amended
				Expires 03-31-90

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15	NCAC	2B	.0101	Amended
			.0103 - .0104	Amended
			.0106	Amended
			.0108	Amended
			.0109	Adopted
			.0201 - .0206	Amended
			.0208	Amended
			.0211 - .0212	Amended
			.0213	Repealed
			.0215 - .0216	Amended
			.0218	Adopted
			.0301	Amended
			.0304	Amended
		2D	.0104	Amended
			.0401	Amended
			.0404	Amended
			.0407	Amended
			.0501	Amended
			.0511	Amended
			.0516	Amended
			.0519	Amended

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		.0524 - .0525	Amended
		.0530 - .0532	Amended
21I		.0601	Amended
		.0603	Amended
		.0606	Amended
71I		.0208 - .0209	Amended
7K		.0208	Amended
10B		.0115	Amended
		.0117	Amended
10F		.0347	Amended

DEPARTMENT OF TRANSPORTATION

19A	NCAC	3D	.0216	Amended
			.0219	Amended
			.0221	Amended
			.0222	Repealed
			.0224	Repealed
			.0228	Amended
			.0231	Amended
			.0515	Amended
		3J	.0606	* Correction

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21	NCAC	2	.0207 - .0209	Amended
			.0302	Amended

BOARD OF MEDICAL EXAMINERS

21	NCAC	32B	.0205	Temp. Repealed Expires 03-03-90
			.0214	Temp. Amended Expires 03-03-90
			.0303	Temp. Repealed Expires 03-03-90
			.0309	Temp. Amended Expires 03-03-90

BOARD OF NURSING

21	NCAC	36	.0209	Amended
			.0211	Amended
			.0213	Amended
			.0217 - .0218	Amended
			.0223	Amended

BOARD OF PHYSICAL THERAPY EXAMINERS

21	NCAC	48A	.0005	Amended
		48B	.0002 - .0003	Amended
		48C	.0101	Amended
		48D	.0008	Amended
		48E	.0104	Amended
			.0110	Amended
		48F	.0002	Amended
		48G	.0203	Amended

BOARD OF PLUMBING AND HEATING CONTRACTORS

FINAL RULES

21 NCAC 50 .0505

Amended

BOARD OF PRACTICING PSYCHOLOGISTS

21 NCAC 54 .1605

Temp. Amended
Expires 04-01-90

OFFICE OF STATE PERSONNEL

25 NCAC 1A .0004
1K .0612 - .0613

Adopted
Temp. Adopted
Expires 02-24-90

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2	Agriculture, Department of
3	Auditor, Department of State
4	Commerce, Department of
5	Corrections, Department of
6	Council of State
7	Cultural Resources, Department of
8	Elections, State Board of
9	Governor, Office of the
10	Human Resources, Department of
11	Insurance, Department of
12	Justice, Department of
13	Labor, Department of
14A	Crime Control and Public Safety, Department of
15	Environment, Health, and Natural Resources, Department of
16	Public Education, Department of
17	Revenue, Department of
18	Secretary of State, Department of
19A	Transportation, Department of
20	Treasurer, Department of State
*21	Occupational Licensing Boards
22	Administrative Procedures
23	Community Colleges, Department of
24	Independent Agencies
25	State Personnel, Office of
26	Administrative Hearings, Office of

NOTE: Title 21 contains the chapters of the various occupational licensing boards.

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4	Auctioneers, Commission for
6	Barber Examiners, Board of
8	Certified Public Accountant Examiners, Board of
10	Chiropractic Examiners, Board of
12	General Contractors, Licensing Board for
14	Cosmetic Art Examiners, Board of
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18	Electrical Contractors, Board of Examiners of
20	Foresters, Board of Registration for
21	Geologists, Board of
22	Hearing Aid Dealers and Fitters Board
26	Landscape Architects, Licensing Board of
28	Landscape Contractors, Registration Board of
31	Marital & Family Therapy Certification Board
32	Medical Examiners, Board of
33	Midwifery Joint Committee
34	Mortuary Science, Board of
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37	Nursing Home Administrators, Board of
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58	Real Estate Commission
60	Refrigeration Examiners, Board of
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- AG - Attorney General's Opinions
- C - Correction
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- GS - General Statute
- JO - Judicial Orders or Decision
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